AMIQQAALUTA • LET US SHARE

MAPPING THE ROAD TOWARD A GOVERNMENT FOR NUNAVIK

REPORT OF THE NUNAVIK COMMISSION
MARCH 2001

103-00677/

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Commission du Nunavik Commission

ᒪᑦᑕ, Mars, March, 2001

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Nous avons l'honneur de présenter le rapport de la Commission du Nunavik en conformité avec le mandat qui nous a été confié dans le cadre de l'Accord politique entre la partie Nunavik, le gouvernement du Québec et le gouvernement fédéral pour l'examen d'une forme de gouvernement au Nunavik.

We are honoured to submit the Report of the Nunavik Commission in accordance with our mandate as it was set out in the Political Accord between the Nunavik Party, the government of Québec and the federal government for the examination of a form of government in Nunavik.

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EXECUTIVE SUMMARY OF THE NUNAVIK COMMISSION'S REPORT
MARCH 2001

Created in November 1999, following the Political Accord between the Nunavik Party, Québec and Canada, the Nunavik Commission was given the mandate to propose a form of government for Nunavik.

The Commission decided to proceed first with public hearings and meetings with public and regional organizations in all Nunavik communities. The Commission also consulted with aboriginal communities and nations neighbouring Nunavik. Finally, it held an extensive round of consultation with numerous government officials from either Québec, Canada, Nunavut and Greenland.

The main features of the Commission's recommendations are the following:

AN ENTIRELY NEW FORM OF AUTONOMOUS GOVERNMENT FOR NUNAVIK:

- Institutions non ethnic in nature, open to all residents.
- Jurisdiction over the entire territory of Nunavik, as per the Political Accord.
- Operate within the Canadian Constitution and respect the authority of the Québec National Assembly and the Parliament of Canada.
- Respect Charters of Rights and Freedoms.
- Respect rights of Inuit, Cree and Naskapi under JBNQA and NEQA.

A NUNAVIK ASSEMBLY:

- Is a democratic forum to debate public priorities and services, and to adopt laws.
- Is the basic building block around which revolves the other Nunavik institutions.
- Composed of at least 15 locally elected members, one for each Nunavik community and one for the Naskapi. Community with a population over 2000 elects a second representative.
- May adopt a Constitution for Nunavik, after having submitted it to the people in a referendum.

LAW-MAKING POWER FOR THE ASSEMBLY:

- Exclusive powers with respect to Inuit language and culture.
- Substantive and effective powers in fields like education, health, environment, public security, land and resources, economic development, justice, etc. These powers would be shared with Québec and Canada.
- No development of natural resources in Nunavik without the consent of the Nunavik Assembly.

A NUNAVIK GOVERNMENT:

- Executes laws and budget adopted by the Assembly.
- Composed at least of five members, including the leader, elected on a Nunavik-wide basis.
- Responsibilities of KRG, KSB, NRBHSS and Avataq would be merged into the Nunavik Government and personnel becomes part of the various departments of the Government.
- KRDC, KMHB, TNI, Tulattavik and Inulitsivik Health Corporations would fall under the jurisdiction of the Nunavik Government, while keeping their corporate identity.
- Local committees in the fields of education, health and social services, and justice would be invested with greater decision-making power.

CREATION OF A COUNCIL OF ELDERS:

- Guardian of the Inuit language and culture.
- Advisory to the Assembly.
- Composed of 15 members, representatives of all the Nunavik communities and the Inuit of Chisasibi.

CREATION OF A NUNAVIK COURT:

- Specific judicial district for Nunavik.
- With a full-time judge and a resident crown attorney.
- Detention facilities should be built in Nunavik.
- Setting up of justice committees in every community: judge would have to consult the committees before sentencing an offender.

OFFICIAL LANGUAGES AND PROTECTION OF INUTTITUT:

- Inuttitut, French and English would be the official languages in Nunavik. Everyone would have the right to use any of the official languages and to receive information in any three languages from the Nunavik institutions.
- Inuttitut would be the predominant language of work in the operation of the Nunavik institutions.
- Nunavik Assembly would be empowered to enact laws to protect Inuttitut and Inuit culture.

CREATION OF TWO COMMISSIONS, COMPOSED WITH REPRESENTATIVES OF NUNAVIK, QUÉBEC AND FEDERAL GOVERNMENTS:

- Nunavik Environmental Commission:
  - ✓ would replace existing KEQC, KEAC and COFEX-North;
  - ✓ would have a twofold mandate:
    - decision making in administration of a unified process for assessing the impact of projects on the environment;
    - advisory in addressing recommendations to Nunavik, Québec and Canada for the protection of the environment.
- Nunavik Wildlife Commission:
  - ✓ local hunting, fishing and trapping associations would be represented on the Commission;
  - ✓ would have a twofold mandate:
    - decision making in wildlife management;
    - advisory in reporting on the status of wildlife and in addressing recommendations to Nunavik, Québec and Canada for the protection of wildlife and the conservation of biodiversity.

FINANCING OF THE NUNAVIK INSTITUTIONS:

- Nunavik Government would receive its share of taxes (income, sales), rents and royalties raised in Nunavik.
- Nunavik Government would be empowered to intervene in the income tax and sales tax rates.
- Nunavik Government would be empowered to generate other revenue, such as fees, fines and dividends from public services enterprises.
- Two block funding agreements, one with the Québec Government and the other one with the Federal Government, should consolidate the various subsidies provided for Nunavik, with provisions for upgrading services, and for new programs and exceptional situations.
- Nunavik Assembly adopts the annual budget submitted by the Nunavik Government.
- Nunavik Assembly would designate an auditor who is responsible for auditing the public accounts and who reports to the Assembly.
- Nunavik Government would be responsible for its surpluses and its deficits.

DECENTRALIZATION AND THE CAPITAL:

- Nunavik Government would decentralize aspects of its functions and decision making process to local institutions at the community level.
- The choice of the Capital would be made by the population in a referendum.

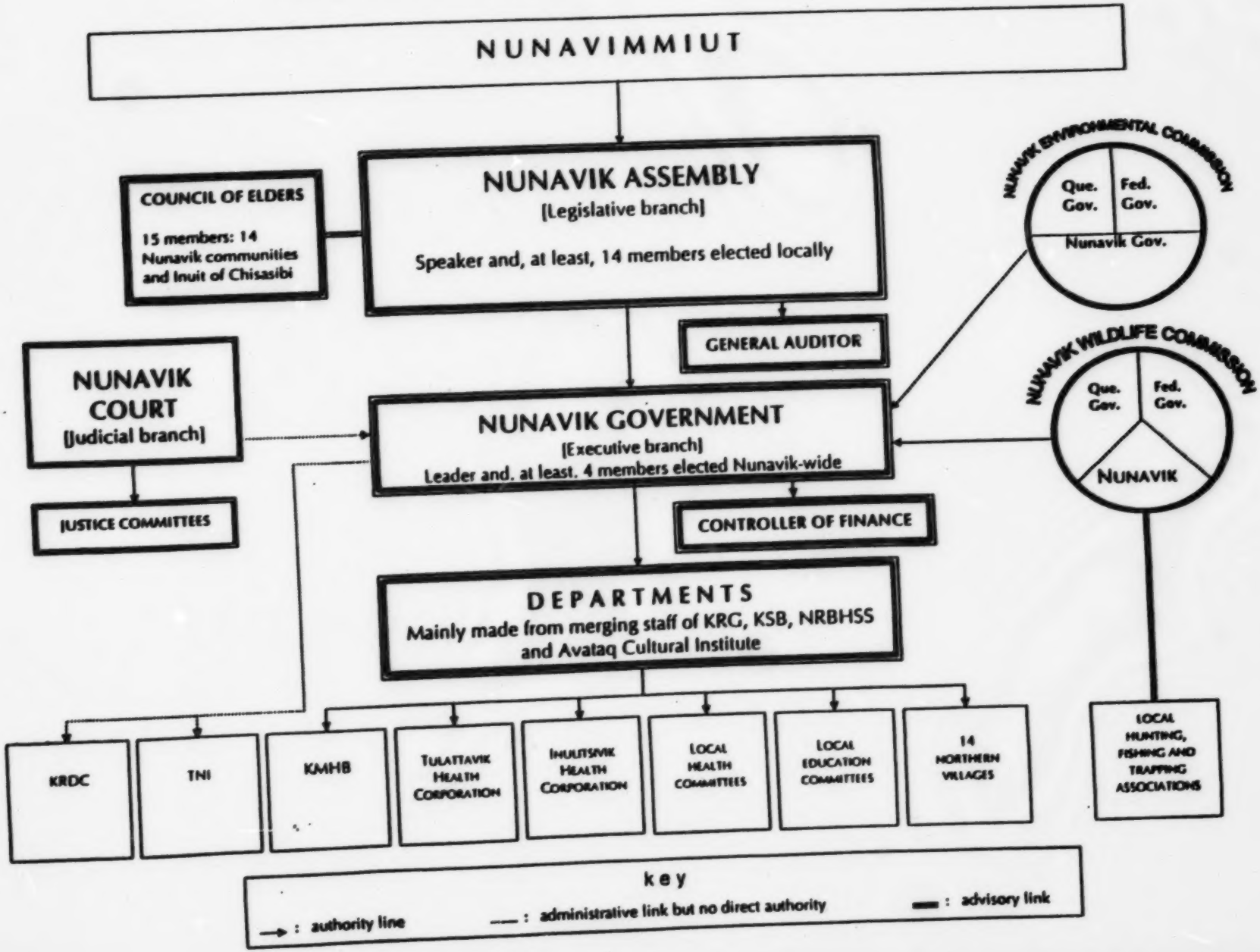
RELATIONSHIP WITH OTHER GOVERNMENTS AND ABORIGINAL PEOPLES:

- A Nunavik Conference of members of the governments of Nunavik, Québec and Canada would be created to discuss matters of mutual concern.
- Members of the Nunavik Assembly would be invited annually by the Québec National Assembly to maintain a continuing dialogue from Assembly to Assembly.
- Nunavik Government would be authorized to develop its own relations with other governments like Nunavut and Greenland.
- A Forum of Aboriginal Peoples of Northern Québec – Inuit, Cree, Naskapi and Innu – would be set up for discussions of mutual concerns in and outside of Nunavik.
- Nunavik should have a seat at the Québec National Assembly and at the Parliament of Canada.

TIMETABLE AND PROCESS:

- Negotiations for the creation of a Nunavik Government should start in Fall 2001.
- An agreement should be reached by 2003.
- The agreement should be submitted to the Nunavik population in a referendum.
- **If the agreement is accepted:**
  - ✓ Appointment of an Interim Commissioner;
  - ✓ transition process would take place from 2003 to 2005;
  - ✓ first election of Nunavik Assembly and Government would be held in fall 2005;
  - ✓ creation of other institutions in 2006;
  - ✓ consolidation of the Nunavik Government from 2006 to 2011.

PROPOSED GOVERNMENT FOR NUNAVIK



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LIST OF ACRONYMS

COFEX-NORTH:	ENVIRONMENTAL AND SOCIAL IMPACT REVIEW COMMITTEE (CANADA)
JBNQA:	JAMES BAY AND NORTHERN QUÉBEC AGREEMENT
JBRDC:	JAMES BAY REGIONAL DEVELOPMENT COUNCIL
KEAC:	KATIVIK ENVIRONMENT ADVISORY COMMITTEE
KEQC:	KATIVIK ENVIRONMENT QUALITY COMMISSION
KMHB:	KATIVIK MUNICIPAL HOUSING BUREAU
KRDC:	KATUTJINIQ REGIONAL DEVELOPMENT COUNCIL
KRG:	KATIVIK REGIONAL GOVERNMENT
KRPF:	KATIVIK REGIONAL POLICE FORCE
KSB:	KATIVIK SCHOOL BOARD
NCC:	NUNAVIK CONSTITUTIONAL COMMITTEE
NEQA:	NORTHEASTERN QUÉBEC AGREEMENT
NQRDC:	NORTHERN QUÉBEC REGIONAL DEVELOPMENT COUNCIL
NRBHSS:	NUNAVIK REGIONAL BOARD OF HEALTH AND SOCIAL SERVICES
NV:	NORTHERN VILLAGES
RCAP:	ROYAL COMMISSION ON ABORIGINAL PEOPLES
TNI:	TAQRAMIUT NIPINGAT INC.

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Many enriching meetings have had an impact on the journey of the Nunavik Commission; without these fruitful exchanges, this report would have been no doubt very different. Firstly, we are grateful to all the people of Nunavik who attended the Commission's hearings and provided their input, which was always extremely informative and was frequently moving. We would also like to express our thanks to all Nunavik organizations for their productive participation through meetings held and through the briefs they tabled. We extend as well our special thanks to the mayors and the councillors who welcomed us so warmly, to the school administrators and secondary students for their interest and their input and, last but not least, to the Elders and the Youth who brought forward many enriching points of view.

We feel that it is especially important to thank all the people and organizations we met outside of Nunavik, in particular the Inuit of Chisasibi and the Inuit students of the Montreal area. The Commission also had meaningful exchanges with the Naskapi of Kawawachikamach, the Cree of Whapmagoostui, the Innu of Matimekush and the representatives of the Jamesians.

We thank all representatives from governments which nourished our work with their expertise: ministries and organizations from the governments of Québec, Canada, Nunavut and Greenland.

The Nunavik Commission had the opportunity to rely upon persons whose generosity and professionalism made the work both pleasant and efficient. We wish to express our gratitude to our two co-secretaries, Mr. Paul R. Bussières and Mr. Fernand Roy and also to Mrs. Dominique de Rouin, Mrs. Caroline Devost, Mrs. Levina Gordon, Mrs. Martha Kauki, Mr. Michael McGoldrick, Mr. Zebedee Nungak and Mr. Jean Talbot.

In closing, we are grateful to the three parties who signed the Political Accord for their continuous support, both financial and administrative. To that effect, we would like to thank particularly Mr. Robert Sauvé, in charge of the Aboriginal Affairs Secrétariat of the Québec Government, Mr. Donald Allard, Assistant to President, Makivik Corporation and Mr. Donat Savoie, Senior Negotiator for Nunavik, Indian and Northern Affairs Canada.

INTRODUCTION

■

Eliyassi Sallualuk *: If all existing groups of Nouveau-Québec decide to work together for the creation of such a government, could you tell them: OK, let's go?*
René Lévesque *: My answer is yes. (...) It is quite simple; if the Inuit unify their approaches in the way of an autonomy within Québec, in order to have a better management of their affairs, to pass laws in fields that concern them directly, to organize their life, we would be ready at once to discuss that with them and to accept this consideration. We could negotiate from this base whenever they want. (...) We would be ready anytime but it is up to them to decide.*

Parliamentary Commission of the Québec National Assembly, November 23, 1983

■

I want to see concrete development on our Nunavik Government, so that we can make real decisions for ourselves. Not to keep on blaming our government in Ottawa, and the Québec Government. But to take on responsibility for our own lives and to control our own governance.

Elashuk Pauyungie,
Public Hearings, Salluit, February 24, 2000

■

INTRODUCTION

I. THE MANDATE AND ITS OVERRIDING PRINCIPLES

The mandate and principles that have guided the work of the Commission are set out in the Political Accord entered into by the Nunavik Party, the Government of Québec, and the Government of Canada on November 5, 1999. The Commission's mandate was nothing short of developing recommendations for an entirely new form of arctic government which will respond to the needs, desires, and aspirations of the Inuit and other residents of Nunavik.

Through the Political Accord, the Commission was given the formidable challenge of identifying the means for creating an autonomous form of public (non-ethnic) government which would accommodate Nunavik's arctic realities while at the same time being capable of functioning within federal and provincial jurisdictions. Such a challenge requires new and creative thinking. Indeed, the Political Accord highlights the fact that the design of a Nunavik Government should be "innovative in nature" and not unduly restricted by policy parameters, current administrative procedures or notions that are incompatible with the creation of a new type of government.

While the Nunavut Government operates within a territorial framework under federal jurisdiction, and Greenland Home Rule Government operates within its special relationship with the Danish Government, there exists no ready-made model for an autonomous form of public government within any of Canada's provincial jurisdictions. As a result, the Commission had to start from scratch when formulating its recommendations for the design of a Nunavik Government. Thus the successful creation of a Nunavik Government will mark a political first in Canada, and Québec will have the distinction of being the first province to make room for such a new form of government within its jurisdiction.

Given the magnitude of the challenge at hand, the Commission was given a wide-ranging mandate to make the recommendations necessary to ensure that a Nunavik Government would be equipped with the appropriate institutions, election processes, powers, jurisdiction, financing, resources, and administrative capacity to function as a true government in the arctic region. As a starting point for its work, the Political Accord indicated the need to consolidate the powers, functions, jurisdictions, and responsibilities of the Kativik Regional Government (KRG), the Kativik School Board (KSB), the Nunavik Regional Board of Health and Social Services (NRBHSS), and the Katutjiniq Regional Development Council (KRDC) under a Nunavik Government. However, the Commission's mandate gave it the latitude to go far beyond this, and this report makes a large number of recommendations on a variety of issues, including an elected assembly with law-

making powers, joint jurisdiction over natural resources, revenue sharing arrangements, the ability to maintain direct relations with other governments of the Arctic, as well as significant institutional capacity to preserve and promote Inuit culture and the Inuttitut language.

In interpreting its mandate, the Commission placed a great deal of importance on the overriding principles of the Political Accord, including:

- a Nunavik Government will be non-ethnic in nature;
- a Nunavik Government will respect the authority of both the Québec National Assembly and Parliament of Canada;
- the creation of a Nunavik Government will respect the rights of Inuit under the James Bay and Northern Québec Agreement;
- the design of a Nunavik Government will have to take into account the existing legal and economic realities, but it will also have to be innovative in nature and in keeping with the objective of creating a new type of government within a provincial jurisdiction;
- a Nunavik Government will be subject to the Canadian Charter of Rights and Freedoms and the Québec Charter of Human Rights and Freedoms;
- arrangements for the creation of a Nunavik Government will have to respect the arctic character of Nunavik and the close relationship between the Inuit of Nunavik and Nunavut.

The exact wording of the Commission's mandate can be found in the Political Accord referred to Appendix 1 of this report.

II. THE THREE PHASES OF THE COMMISSION'S WORK

The Commission was given a mandate which it endeavoured to respect in arriving at its report and recommendations for the creation and design of a form of government for Nunavik. While the Commission was careful to adhere to its mandate, it was ready to give a broad interpretation to its role and objectives where required, particularly when presented with larger than expected issues during the public hearings.

In order to carry out its mandate, the Commission divided its work into three distinct phases. The first phase was perhaps the most important aspect of the Commission's work and involved visiting all the Nunavik communities to hold

public hearings, to speak with secondary school students, and to meet local elected officials. The Commission used the radio, television, and the print media to introduce itself, and it kept in touch with the communities through a toll-free phone number. It was during the first phase that the Commission held its first meetings with the regional organizations and institutions operating in Nunavik.

The second phase of the Commission's work consisted of a series of meetings with officials from numerous departments and ministries involved with Nunavik-related issues in the Governments of Québec and Canada, as well as Nunavut and Greenland. It was during this phase that the Commission received briefs from the major regional organizations and institutions in Nunavik, consulted experts, and conducted documentary research with its own resources. In the third phase, the Commission established various working groups with a view of studying specific issues; then, it finalized its recommendations and drafted the present Report.

LAYING THE FOUNDATION

I. NUNAVIK TERRITORY AND PEOPLE

Nunavik is the only region in Québec which lies primarily above the tree line, where none of the municipalities are connected by road, and where Inuit constitute the overwhelming majority of the population. It is clear that Nunavik is part of the arctic world by virtue of its geography, climate, culture, language, landscape, modes of transportation, and high cost of living. It is in this context that the Commission uses the word "Arctic" in this report and in its recommendation for the creation of a Nunavik Government.

Nunavik is a vast region. It consists of 500,000 square kilometres, and it stretches from the 55th parallel to the northern tip of the province, and from Labrador in the east to Hudson Bay in the west. The Political Accord officially describes "Nunavik" as part of Québec located north of the 55th parallel of latitude, except for Category 1A lands and 1B lands of the Cree of Great Whale as defined in the James Bay and Northern Québec Agreement (JBNQA), and Category 1B-N lands of the Naskapi as defined in the Northeastern Québec Agreement (NEQA).

A Nunavik Government would have jurisdiction over all lands in the territory as described in the Political Accord. This would include jurisdiction over category I, II, and III Lands, as is currently the case with the existing public institutions exercising their authority north of the 55th parallel. Likewise, the Nunavik Government would have the same obligations as the existing institutions to fully respect the Inuit land rights north of the 55th parallel, including their property over Category I lands, and their hunting, fishing, and trapping rights over Category II and III lands.

Although Nunavik is a vast region, it is sparsely populated. It has a total population of approximately 11,000 permanent residents, of which close to 90 percent are Inuit. Inuit also constitute the vast majority in each of the 14 Nunavik municipalities. Nunavik's small, but significant non-aboriginal population, does not live apart from the Inuit communities. Rather, they are integrated in Inuit municipalities, and they share in the life of these communities by being able to fully participate in the region's public institutions such as the local municipalities, the KRG, KSB and the NRBHSS.

In the larger context, all the residents of Nunavik are integrated in Québec and Canada's legal, administrative and tax regimes. For example, both the federal and provincial Charters of Rights and Freedoms apply to the public institutions of Nunavik, and Inuit and non-Inuit alike are full taxpayers on the same basis as other citizens of Québec and of Canada.

There exists the Cree First Nation of Whapmagoostui just north of the 55th parallel in what would be the south-west corner of Nunavik. Furthermore, the Naskapi First Nation lives in an area immediately south-east of Nunavik. The Naskapi also have a municipality north of the 55th parallel under the NEQA and the JBNQA, but it has no permanent residents. Neither the Cree community of Whapmagoostui nor the Naskapi of Kawawachikamach are included in the definition of Nunavik. On the other side of the coin, there exists an Inuit population in the Cree village of Chisasibi south of the 55th parallel. While this Inuit community is not part of Nunavik, the Commission recognizes that it has cultural and social links with Nunavik, and could have representation in certain public bodies of a Nunavik Government.

II. EXISTING REGIONAL INSTITUTIONS OF PUBLIC ADMINISTRATION

There currently exist numerous public institutions of regional scope in Nunavik, including the KRG, the KSB, the NRBHSS, the KRDC, and various other administrative organizations.

Most of these were put in place as a result of what Inuit representatives were able to negotiate in the JBNQA twenty-five years ago. At the time, Inuit had the choice of negotiating Inuit-specific (ethnic) institutions of self-government which would have come under federal jurisdiction. However, they rejected this option in favour of the creation of a series of public institutions (non-ethnic) which would have jurisdiction throughout their region. And since these public institutions did not relate exclusively to an Aboriginal People, it became legally possible under the Canadian Constitution to implement these bodies through Québec legislation. Consequently, although Inuit were largely responsible for negotiating these institutions created under the JBNQA, these public bodies are open to the participation of all residents of the territory, Inuit and non-Inuit alike.

These public institutions have, to a degree, succeeded in increasing the region's autonomy over the past two decades, and they have provided the Inuit with the opportunity to exercise greater control over their affairs. By their very nature, these bodies usually operate in isolation from one another, and are administrative in function, and often have to act as an extension of numerous provincial and federal departments in the south.

The result is a system of public administration which is unwieldy and extremely complex. For example, the KRG derives 95 percent of its resources through 35 different agreements with a dozen provincial and federal departments. The negotiating and reporting requirements of these agreements place a heavy administrative burden on this institution, thus resulting in considerable time and

energy being diverted away from the KRG's primary functions and responsibilities in Nunavik.

In addition to inefficiencies brought about by the need to manage so many agreements, the current system of public administration in Nunavik is plagued by overlapping responsibilities among the different institutions in the region. Examples include the real and potential room for duplication and overlapping activities between the Avataq Cultural Institute and the KSB on some cultural matters, and between the KRG and the KSB in certain aspects of adult training and education. On the other hand, there are also gaps in the current system, and this is true for some matters pertaining to communications, youth, and culture which are not addressed in the JBNQA.

Probably the most glaring shortcoming with the existing system is that it lacks an overall body through which the people of Nunavik can come together collectively to determine their priorities and aspirations. The existing institutions such as the KRG, KSB, and the NRBHSS have elected representatives, but ultimately, they are each responsible for a relatively narrow field of activity, and they generally operate independently of each other. Even a body like the KRG, which has taken on a public policy role far beyond what was originally envisaged, is still limited by its function and mandate as a supra-municipality.

The Commission noted arguments put forward in Makivik's brief that the situation in Nunavik is akin to a Government of Québec that would consist of nothing more than a series of departments and ministries operating independently of each other without a National Assembly or an executive head of Government. Further proof of the region's need for a comprehensive and autonomous structure can be found in the fact that the institutions created under the JBNQA have consistently evolved to assume a greater competence and role in responding to the needs of residents of Nunavik. The lack of the necessary overarching institutions north of the 55th parallel is one of the more compelling reasons for the creation of a Nunavik Government.

III. THE JOURNEY TOWARDS A NUNAVIK GOVERNMENT

In developing its recommendations for the design of a Nunavik Government, the Commission could not help but take notice of continuous efforts by the Inuit over three decades to establish an autonomous government for Nunavik. Indeed, the Commission was impressed by the fact that many of the individuals who spoke at the public hearings also appeared before the Neville-Robitaille Commission thirty years ago with essentially the same message.

In the early 1970's the Inuit pursued the creation of an autonomous government through their cooperative movement, the Federation of Cooperatives, and the newly established Northern Québec Inuit Association. When the opportunity to conclude a land claims agreement presented itself in the mid 1970's, the Inuit used the occasion to put in place many of the public institutions referred to earlier. However, they never lost sight of their desire for a truly autonomous government which could exercise law-making powers and consolidate the responsibilities and jurisdiction of many of the institutions of public administration operating in the region. Moreover, the need for a comprehensive government structure for Nunavik was also driven by the demands of the Inuit who strongly opposed the limitations of the JBNQA.

In 1983 the Inuit pleaded their case before a special Commission of the Québec National Assembly, and the then Premier René Lévesque indicated that Québec was willing to open discussions on creating new self-government arrangements for the territory north of the 55th parallel. Shortly afterwards, the Inuit organizations and public institutions in Nunavik came together under the Ujjituijiit Committee to develop the necessary proposals. This work was taken over by the Nunavik Constitutional Committee, which, after much debate and consultation, produced a draft constitution for a possible Nunavik Government. The significance of this work is that the draft constitution was approved in 1991 in a Nunavik-wide referendum involving all residents of Nunavik, and it confirmed the people's desire for a public government with substantial law-making and administrative powers.

Intensive rounds of negotiations on the creation of the Nunavik Government took place in the 1990's, but it became obvious that further preparation was required in order to reach the necessary agreements. In the fall of 1997 in Kangiqsualujjuaq, in response to a proposal made by Inuit leaders, Premier Lucien Bouchard agreed with the idea of establishing a commission to make recommendations for the design and implementation of a Nunavik Government. Then the federal government was invited to participate within this process, and late in 1999, the Nunavik Party and the Governments of Québec and Canada signed the Political Accord which provided for the mandate and establishment of the Nunavik Commission.

The Commission is keenly aware that its work follows three decades of efforts to realize an autonomous government for Nunavik. The Commission sincerely hopes that its report and recommendations will make a significant and timely contribution to the creation of a Nunavik Government.

IV. THE PUBLIC HEARINGS: PRIORITIES AND CONCERNS

The Commission attached a great deal of importance to what people had to say at its public hearings. In the course of its travels to the 14 communities of Nunavik,

certain themes began to emerge and take shape as priorities for a future Nunavik Government.

First and foremost was the concern for the future of Inuit culture and the Inuttitut language. People consistently indicated that a Nunavik Government must be one in which Inuit would be able to see themselves, their language, their values, and their traditions. It would not be enough for a Nunavik Government to simply respect and accommodate Inuttitut and Inuit culture. Rather, the government would have to be an effective tool for the preservation and promotion of Inuttitut and the Inuit culture.

Furthermore, numerous individuals voiced concerns over the exceptional high cost of living and heavy tax burden in Nunavik. On this last point, people wanted to make sure that the creation of a Nunavik Government would not lead to a third level of taxation in the region. The Commission also heard numerous presentations on the need for a Nunavik Government to have greater control over renewable and non-renewable resources and the means of generating wealth from within the region. Other areas of concern included the need for autonomy and law-making powers, adequate powers to protect the environment and the safety of country food, and culturally appropriate education, health, social, and justice systems which will involve controls and input at the community level.

The Commission has taken all these messages to heart, and it has done its best to address the concerns and priorities voiced at the public hearings in its recommendations for the creation of a Nunavik Government.

In addition to the above, the Commission also heard messages and concerns on important issues that went beyond its mandate. The Commission explained that it could not act on these matters in its recommendations, but it promised to report the issues in order to bring them to the attention of those in a position to take action on these matters.

The status of the offshore area is one such issue that went beyond the Commission's mandate. The traditional Inuit lifestyle is closely tied to the offshore, and Inuit continue to rely heavily on the area for subsistence hunting and fishing. As a result, many people at the public hearings emphasized the logic of having the offshore come under the jurisdiction of a Nunavik Government. However, the Commission's mandate indicates that it can only make recommendations regarding the creation of a Nunavik Government for the territory described in the Political Accord. This territory includes the region north of the 55th parallel within the province of Québec, but not the offshore area, which comes under federal and Nunavut jurisdiction. It should also be noted that the jurisdiction of KRG, KSB, and other institutions created under the JBNQA do not extend to the offshore. On another hand, the Commission agrees the question concerning the status of the offshore is

important, and it believes that this matter should be addressed by the interested parties. Furthermore, the Commission notes that it may be possible that some concerns expressed at the public hearings could be resolved by the agreement being concluded by the Makivik Corporation with the Governments of Canada and Nunavut.

The subject of dog killings was another issue raised in many communities in reference to the sled dogs that were killed several decades ago by the police forces. This yet unresolved issue is considered by many as an extremely sad event that caused a great deal of suffering in the Nunavik communities. This issue like the offshore issue is presently being dealt with by Makivik Corporation.

The issue of Québec sovereignty was also raised on a number of occasions during the public hearings. Some people wanted to know what would happen to a Nunavik Government if Québec were to secede from Canada. Others asked how the creation of a Nunavik Government could affect Inuit decisions concerning their future in the event that Québec decides to leave the Canadian Federation.

The Commission recognizes that questions concerning Québec sovereignty are very important, and that this issue will continue to be hotly debated for some time to come. In the meantime, Makivik is actively representing Inuit interests on this issue with the federal and provincial governments. Whatever the case, addressing this issue in its recommendations is well beyond the scope of the Commission's mandate. However, it should be noted that the Commission's mandate is supported by the Nunavik Party and both the Governments of Québec and Canada, and that the recommendations for the creation of a Nunavik Government are within the context of Canada's current constitutional framework.

V. PRINCIPLES BEHIND THE COMMISSION'S WORK AND RECOMMENDATIONS

Given the terms of its mandate, what it heard at the public hearings and in meetings with representatives of various organizations and governments, and the preference of Nunavik as demonstrated by the developments of the past three decades, the Commission decided to build its report and recommendations on the following three principles:

A public government for Nunavik

Even if it may seem obvious, the Commission is using the words "public government" to mean one which is non-ethnic in nature. Under such a system, people are entitled to receive services from, and to fully participate in a public government regardless of their ethnic origin. In Nunavik, this would include all permanent residents of the territory, Inuit and non-Inuit alike.

Although Inuit have chosen to exercise their right of self-determination through forms of public government, it is worth noting that some Aboriginal Peoples have opted to exercise their right to self-determination through the inherent right of self-government. The inherent right of self-government is an Aboriginal Right, and it manifests itself as an Aboriginal, or ethnic form of Government. As stated in the RCAP Report, governments generally take the exercise of the inherent right to be limited to lands that are primarily owned or directly controlled by an Aboriginal People, such as category 1 lands under the JBNQA.

It should also be noted that although the Inuit may have opted for a public government, their inherent right of self-government continues to exist. Subject to the situation described above, the Inuit of Nunavik could decide, for a variety of reasons, to exercise their inherent right of self-government at some point in the future.

While a Nunavik Government may be non-ethnic in nature, it will inevitably reflect Inuit traditions, values and aspirations for the simple fact that Inuit constitute close to 90% of the population in the territory. A Nunavik Assembly will also have the ability to make laws for the preservation and enhancement of the Inuit culture and the Inuttitut language, thus providing a legitimate forum for such initiatives and assuring that they respect the rights of all the residents living in the territory.

The creation of a public government for Nunavik would be consistent with section 5.1 (a) of the Political Accord and the non-ethnic status of many of the institutions currently operating in Nunavik, including the KRG, KSB, and NRBHSS. Likewise, it would be in keeping with the non-ethnic nature of the Government of Nunavut and the Greenland Home Rule Government. By definition, a public government for Nunavik would be subject to the Canadian Charter of Rights and Freedoms and the Québec Charter of Human Rights and Freedoms.

The need for innovation and a high degree of autonomy

Throughout the Commission's tour of the communities, the fundamental aspiration of the Inuit of Nunavik to manage their own affairs was expressed clearly and constantly. The Nunavik Commission is of the opinion that it calls for the creation of a government with a high degree of autonomy. At the very least, this calls for an elected assembly with law-making powers and an executive branch with a significant measure of autonomy in financial, administrative and intergovernmental functions. Conversely, this means discarding arrangements where the components of a Nunavik Government would be viewed as an extension of various departments of the Governments of Québec and Canada, and avoiding the temptation to mimic

regional structures in southern Québec whose jurisdiction is not broad enough to address Nunavik's needs.

The need for autonomy goes hand in hand with the need to be innovative. Municipal, territorial (Nunavut, Yukon and Northwest Territories), and provincial models of government cannot be used as a template for the creation of a Nunavik Government. Rather, there is an intense need for an innovative approach which will produce a highly autonomous form of government which does not yet exist within Québec or any other provincial jurisdiction in Canada.

Fortunately, the Commission believes that there exists sufficient flexibility within the Canadian and Québec legal systems to provide a Nunavik Government with the necessary autonomy, law-making powers and shared jurisdiction. By the same token, it must be recognized that in most cases such autonomy will generally not mean exclusive law-making powers for a Nunavik Government. Depending on the power being exercised, the law-making ability of a Nunavik Government would have to, in varying degrees, be shared with the Governments of Québec and Canada.

The Commission also believes that political autonomy means very little without financial autonomy. A Nunavik Government must have the ability to use its financial resources according to its own decisions and priorities. This means moving away from conditional funding existing between provincial and federal departments and the corresponding institutions in Nunavik. Wherever possible, a Nunavik Government should receive transfer payments in the form of block funding. Financial autonomy also means providing a Nunavik Government with its own source of revenue by sharing the wealth. Again, this innovative approach is needed to allow a Nunavik Government access to most of the taxes currently being collected in the territory, and to rents and royalties relating to resources development.

Responsibility and accountability in the design of a Nunavik Government

The greater will be the level of political and financial autonomy of a Nunavik Government, the greater its level of responsibility. For that reason, it is essential that a Nunavik Government be accountable to the people of Nunavik. Equally important is the need for a system which will encourage people to take an active stance in holding a Nunavik Government accountable for its decisions and actions. With this in mind, the design of the assembly, executive, and administration must provide proper accountability, especially for matters relating to budgetary items and expenditures.

It should be noted that while a Nunavik Government would assume, within its jurisdiction, many responsibilities in the region, this would not mean the residents of the territory would be cut off from the Governments of Québec or Canada. People would still vote in federal and provincial elections, and Québec and Ottawa would continue to respond to their needs on the same basis as other citizens. Likewise, federal and provincial laws of general application would continue to apply as the case warrants. Nonetheless, it can be assumed that the existence of a highly autonomous Nunavik Government would have an impact on the nature and extent of the provincial and federal government's responsibilities to Nunavik.

The three principles described above form the basis for the Commission's work and recommendations. In addition to serving as the underpinnings of this report, the Commission believes these principles will also lay the foundation for an effective, efficient and autonomous Government for Nunavik.

PART ONE
THE INSTITUTIONS

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The means by which we will attain autonomy, I prefer not to refer to as a government. It will represent everybody, whoever they may be, and will have to act as a sort of father or a roof of unity to the various organizations which exist today, mostly as a result of the James Bay Agreement. It will act as leader, giving direction. If these entities continue to exist in fragmented isolation to each other, the solutions to the problems which have been highlighted will not be consolidated. It will instead contribute to scattering them even more.

Minnie Grey,
Public Hearings, Kuujjuaq,, February 22, 2000

■

My grandfather and my father both had possessions of the knowledge of Inuit, traditions and expertise in wildlife matters handed down throughout the generations by word of mouth and not by written literature (...). They were kept alive by the workings of their brain, and included knowledge of the stars and constellations. They knew the ways of the winds and the science of the snow. By the reading (...) of the clouds and their formation and behaviour, they could accurately foretell the coming of adverse weather as well as good weather (...). So, if we are setting out to build a proposed government, we have to allow our Elders (...) to take the lead in this.

Mary Luuku,
Public Hearings Ivujivik, March 13, 2000

■

For those who are going to set up the Covernment, there should be considerations made for the decentralized distribution of the agencies and institutions among the communities. That way, more jobs can be available to more people.

Sarah Bennett,
Public Hearings, Kuujjuaraapik, August 28, 2000

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Our hearts have been battered and bruised over the years by laws that governments have made which do not fit our lives at all. This is especially apparent in the courts and the justice system. Our people are hauled onto court and lectured to and admonished in a system utterly foreign to ourselves! They are dragged into court over trifles which could be settled by alternative ways.

Paulusie Padlayat,
Public Hearings, Salluit, February 24, 2000

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THE INSTITUTIONS

The overall structure of the Nunavik Government should be composed of three branches: legislative, executive and judiciary. The legislative power would be held by an elective assembly, enabled to pass laws; the executive power would be held by another elective structure, called the Government, and responsible for the execution of the laws and the public administration. The Commission also proposes that some basic elements of a judiciary system be instituted for Nunavik. The three following chapters describe the proposed Assembly, the Government and those elements of a judiciary system which would better serve the distinctive needs of Nunavimmiut.

CHAPTER 1 AN ASSEMBLY FOR NUNAVIK

The creation of an Assembly of Nunavik is the indispensable starting point of autonomy. It is the basic building block around which the other branches of the Nunavik Government shall revolve. Autonomy for Nunavik cannot be accomplished without an Assembly.

The Assembly of Nunavik shall be a permanent forum for democratic debate, for the setting of economic, political and socio-cultural priorities and for the expression of the aspirations of the people of Nunavik. It shall hold the Nunavik Government accountable for its actions, and shall establish the legal and financial framework within which the Government shall operate. Finally, the Assembly shall become an instrument for achieving further self-determination, beyond the management of immediate issues, through more fundamental debates on the status of Nunavik as the need arises.

The Assembly shall function within the Constitution of Canada, which includes the division of powers between federal and provincial institutions and, since 1982, the Charter of Rights and Freedoms, as well as section 35 of the Constitution Act which guarantees and protects aboriginal and treaty rights. The Assembly shall also function within the jurisdiction of Québec, including the Québec Charter of Human Rights and Freedoms. The Assembly shall be open to the membership of persons of any ethnic origin, subject to reasonable requirements relating to residency, and to other matters, that may be established by law.

Only an Assembly elected directly by the people will have the authority and legitimacy to decide to use resources where they are most needed. While most of the organizations and institutions of Nunavik, whether or not they have been established by the JBNQA, have been able to function separately for a number of years, the lack of a central forum has reduced their effectiveness, and has made the selection of overall priorities within public affairs a nearly impossible task, while

generating overlap and undue expenses. Some of these organizations also suffer from chronic under-funding, which prevents them from delivering services that are strongly felt needs. Consequently, the boards of KRG, KSB, NRBHSS and Avataq Cultural Institute shall be replaced by the Assembly. On the other hand, TNI, KMHB, KRDC and Inulitsivik and Tulattavik Hospital Corporations shall come under the jurisdiction of the Assembly while retaining their corporate identity.

Recommendation 1 at the end of this chapter, provides a detailed model of the structure, function and powers of the Assembly. This recommendation is more precise and elaborate than most of the other recommendations made by the Commission, because it lies at the heart of the Commission's mandate and because it has been made clear to the Commission in the public hearings that a complete proposal on this subject was expected by the population of Nunavik.

I. STRUCTURE

The Assembly would be elected directly by the residents of Nunavik and be composed of at least 15 members, one from each of the 14 villages of Nunavik and one from the Naskapi.

Following the public hearings and meetings with the regional organizations and municipal councils, the Nunavik Commission indeed believes that the rule of at least one representative per village reflects a general desire of the population as well as a widely accepted practice over the last 25 years. This rule is justified by the particular circumstances of Nunavik, such as its lack of roads and the huge size of its territory which makes of each village a distinct social unit with its own marked identity. Consequently, the Commission does not feel that the concept of electoral districts grouping more than one village is applicable.

With respect to the Naskapi, the Commission was directed by the Political Accord to ensure that the rights that were recognized to them by the NEQA in 1978 would not be reduced. The Naskapi presently have one seat in the KRG; they should therefore have one as well in the Assembly of Nunavik if they so desire. This would however, clearly fall short of the many concerns that were strongly expressed to the Commission by the Naskapi. These concerns should be properly addressed through the Forum of Aboriginal Peoples of Northern Québec proposed in chapter 10.

In addition to the 15 members of the Assembly, each village, including the Naskapi, shall elect a second member if its population exceeds 2000 residents. This measure appears necessary to ensure a minimal proportional representation among villages whose population varies from less than 200 to over 2000. The Commission is of the opinion that this proportional representation could be improved in the future by the Assembly, if it so desires.

Furthermore, in addition to those members who are to be elected locally, the Assembly may or may not be composed of the persons elected at large to form the Government. In the next chapter, the Commission proposes that the persons called to run the Government be elected at large, by the population of Nunavik, as compared to the members of the Assembly who shall be elected on a local basis. For that reason, the members of the Nunavik Commission could not agree among themselves as to whether or not the elected members of the Government should also be members of the Assembly.

In the course of its discussion, the Nunavik Commission contemplated two different models without arriving at any consensus on the matter. Some Commissioners were of the opinion that the Government members should be members of the Assembly, a position that other Commissioners objected to. This issue will be dealt with in the next chapter.

Whatever decision is to be made on this issue, the Assembly should elect a Speaker at its first sitting as soon as elections are held; it should also adopt its own rules of procedure.

The Commission proposes that the Assembly be elected to a three or a four-year term; this period would appear to be long enough to carry out some significant measures and short enough to remain closely tied to the will of the voters. There would be no limit on the number of terms for an individual member of the Assembly. A member of the Assembly elected locally may also serve as a mayor of one of the villages of Nunavik.

Since the Inuit of Nunavik have so far chosen a public form of government, as in Nunavut and Greenland, elections to the Assembly are open to non-Inuit. An employee of the Government would have to obtain a leave of absence before becoming a candidate; the leave of absence would last during all his term of office if he is elected and could not be denied by the Government. This would ensure the absence of a conflict of interest for the candidate during his campaign and during his term. It would also give him the right to return to his former occupation, or the equivalent, after the end of the campaign or the end of his term.

II. FUNCTIONS

The Assembly would have two major responsibilities. Firstly, it would serve as a permanent and central democratic forum. It could discuss any issue, and adopt motions or resolutions on any subject, including matters that are not within its legislative power. The Assembly could thus, if it chooses, state from time to time its position on issues of fundamental concern in the name of Nunavik.

Secondly, the Assembly would serve as a law-making body in a number of significant areas. The laws of the Assembly would apply to the Government, the people and the territory of Nunavik. While the Assembly would not own any land, it would have jurisdiction over the entire territory of Nunavik, including all three categories of land established by the JBNQA. On the other hand, the Assembly would have to respect the current provisions of the JBNQA concerning the ownership and use of land, including the provisions relating to the rights and powers of landholding corporations.

In addition, the Assembly may exercise other powers that may be transferred to it by the National Assembly of Québec, the Parliament of Canada, as well as other powers which may derive from specific arrangements with Makivik Corporation or the Government of Nunavut. It may also request reports from various bodies under its jurisdiction, such as KRDC, KRPF, KMHB or Taqramiut Nipingat Inc. (TNI). It may create committees or commissions made up of its own members or of other individuals, to investigate or study any matter it chooses.

III. LEGISLATIVE AND OTHER POWERS

Recommendation 2 proposes that the Assembly of Nunavik have jurisdiction over a wide range of legislative matters. These reflect the concerns expressed in the public hearings and, as a matter of fact, relate to the main areas of public concern such as Inuit language and culture, health and social services, education, economic development, natural resource development, protection of the environment, wildlife management, municipal affairs, housing, public security, administration of justice, communications and transport.

The jurisdiction over Inuit language and culture would be exclusive. In all other areas mentioned in this report, the jurisdiction would be shared with the National Assembly of Québec or the Parliament of Canada, but must be substantial and effective. This degree of autonomy must be at least as high, in the beginning, as present-day reality in each area. Neither the National Assembly of Québec nor the Parliament of Canada would have the power to reduce the powers of the Assembly of Nunavik without its consent.

In addition to the list of legislative powers mentioned in Recommendation 2, there are specific provisions contained in other recommendations. In particular, no development of natural resources in Nunavik would take place without the consent of the Assembly (see Recommendation 15). This would provide important and much-needed leverage in negotiations with promoters and governments over the sharing of the wealth flowing from the land, the water and the minerals of Nunavik. The Assembly and Government would then be in a position to ensure that public

revenue, employment and contracts for the businesses of Nunavik are derived in a spirit of fairness from the development of natural resources.

Moreover, the Assembly of Nunavik would approve the budget of the Nunavik Government, its own budget, and it would also approve the salaries and benefits of the members of the Government and of its own members.

The Assembly would adopt the official titles of the leader and the other members of the Government, as well as the official designations of the departments of the Government.

IV. COUNCIL OF ELDERS

The Nunavik Commission proposes the creation of a Council of Elders, an advisory body responsible for the protection and development of Inuttitut and Inuit culture. This is justified for a number of reasons. The clear emphasis that was placed in the public hearings on the protection and development of Inuit language and culture is one of those reasons. The enhancement of the identity and cohesiveness of Inuit society, by showing respect for elders in a formalized setting, is another. It is also believed that the traditional knowledge and moral authority of elders will guide the other institutions of Nunavik to a higher purpose and long-range concerns.

The underlying role of the Council of Elders would be to act as the guardian of Inuit language and culture, and of Inuit values. For this reason they would have a direct relationship with the Nunavik Assembly and shall advise it on all matters pertaining to language and culture. Moreover, the Council of Elders would be able to initiate its own examination of issues it deems important for the future of Inuttitut and the Inuit culture, and it would be able to submit its recommendations directly to the Nunavik Assembly for consideration.

The Council of Elders would have the ability to establish the necessary committees to help carry out its work, and when invited to do so, its members could also participate in committees of the Nunavik Assembly.

The leader and other members of the Government would be able to speak to the Council of Elders if invited by the Council. As is the case for the Assembly, the sittings of the Council of Elders would be public, and it could adopt its own rules of procedure.

The Commission envisages a Council of Elders that would likely be composed of representatives from all the communities in Nunavik, although the final decision will rest with the Nunavik Assembly. Whatever the case, the Commission believes that it is important that the Council of Elders include a representative from the Inuit

community in Chisasibi. The Commission visited this community, located just south of the 55th parallel, and therefore outside the territory of Nunavik. Although their relations with their Cree neighbours appear to be close, the Inuit of Chisasibi expressed to the Commission a clear desire to strengthen their ties with Nunavik, social and cultural ties in particular. Representation within the Council of Elders would help to achieve that goal.

With respect to the eligibility criteria for being a member of the Council of Elders, the Nunavik Commission could not reach an agreement. Some Commissioners are of the opinion that the Council of Elders should be limited to Inuit, while others are of the opinion that the Council should be open to all residents of Nunavik, provided that they speak Inuttitut. Therefore, the Commission came to the conclusion that the selection process and criteria for membership in the Council of Elders as well as its structure, should be determined by the Nunavik Assembly.

V. OFFICIAL LANGUAGES, CONSTITUTION AND OTHER MATTERS RELATED TO THE FUNCTIONING OF THE ASSEMBLY

Besides defining the structure of the Assembly and the Council of Elders, Recommendation 1 also addresses issues of great significance: the official languages, the Constitution, referendums, by-elections, code of ethics, recall, Speaker and sessions of the Assembly.

In order to respond to the many concerns that were expressed during the public hearings with respect to the future of the Inuit language, and in keeping with the experience of the newly formed government of Nunavut, the Commission came to the conclusion that Inuttitut had to be elevated to the status of official language of Nunavik, alongside French and English whose status of official languages is already entrenched in the law.

This is to say that Inuttitut, French and English shall be the official languages of Nunavik. Therefore, every member of the Assembly and the Government has the right to use any of those three languages, just like everyone in Nunavik. In the same spirit, information, documentation and correspondence may be obtained from the Assembly and the Government in any of the official languages.

In the courts though, where everyone will have the right to be heard in any of the official languages, only the French and English versions of a legal rule, a decision or a measure adopted by the Assembly and the Government of Nunavik can be applied by the courts. This is a consequence of the legal rules of procedure and interpretation that are presently applied in the court system across the country. However, the Commission recommends that no law can be applied by the courts unless there exists an official Inuttitut version of that document.

Finally, Recommendation 1 empowers the Nunavik Assembly to adopt a Constitution of Nunavik, which may be inspired from the NCC Constitution that was approved in April 1991 by the population of Nunavik. Given the paramount importance of such a document, the Commission is of the opinion that it should be submitted to the citizens of Nunavik for approval.

RECOMMENDATION NO 1

THE NUNAVIK ASSEMBLY

AN ASSEMBLY FOR NUNAVIK

1.1 There shall be an Assembly of Nunavik elected directly by the residents of Nunavik. The right to vote would be acquired after one year of residency, and the right to be elected after a two years residency.

1.2 There shall be at least 15 elected members of the Assembly of Nunavik, one from each of the 14 communities of Nunavik and one from the Naskapi. In addition, each community with more than 2000 residents, including the Naskapi community, shall elect a second member of the Assembly. This proportional representation could be improved in the future by the Assembly.

1.3 The Assembly shall be elected for a term of three or four years.

1.4 The elections to the Assembly and to the Government may be held on the same day.

1.5 The boards of KRG, KSB, NRBHSS and Avataq Cultural Institute shall be replaced by the Assembly. TNI, KMHB, KRDC and Inulitsivik and Tulattavik Hospital Corporations shall come under the jurisdiction of the Assembly while retaining their corporate identity.

THE COUNCIL OF ELDERS

1.6 There shall be a Council of Elders, an advisory body to the Nunavik Assembly which would include 15 members, one from each of the 14 communities of Nunavik and one from Chisasibi.

1.7 The selection process and criteria for membership in the Council as well as its structure shall be determined by the Nunavik Assembly.

1.8 The Council of Elders is the guardian of Inuit language and culture, and of Inuit values.

REFERENDUMS

1.9 A member of the Assembly and of the Government, three municipal councils or a number of electors from each community, to be determined by the Assembly, may propose that a referendum be held in Nunavik on any issue.

1.10 All referendum proposals must be considered urgently by the Assembly, and decided upon promptly.

1.11 A referendum must be held if a referendum proposal receives the support of a majority of the members of the Assembly who are present.

1.12 There shall be no abstentions on a referendum proposal.

BY-ELECTIONS

1.13 If a member of the Assembly or the Government resigns, dies, becomes incapacitated or is convicted of a criminal offence, a by-election shall be held to replace him or her until new general elections are held.

CODE OF ETHICS

1.14 The Assembly must adopt a Code of Ethics applicable to the members of the Assembly and the Government.

RECALL

1.15 The leader and the other members of the Assembly or the Government, or any of them individually, may be recalled before the end of their term for clearly dishonourable personal conduct, for a fundamental breach of trust or for behaviour incompatible

with the dignity of their office and the standards expected by the people of Nunavik. A recall of such persons shall take place and a by-election shall be held to replace them if a vote of two-thirds of the members of the Assembly is in favour of a recall.

THE SPEAKER OF THE ASSEMBLY

1.16 Immediately after general elections are held, the members of the Assembly shall sit together to elect, by a secret ballot, a Speaker of the Assembly from among themselves.

1.17 The Speaker shall be responsible for the protection of the rights and privileges of the Assembly, as well as the rights and privileges of each member of the Assembly.

1.18 The Speaker shall be responsible for the agenda of the Assembly, unless he is overruled by the Assembly.

1.19 The Speaker may not take part in debates in the Assembly. He must withdraw if his personal conduct, or his conduct as a Speaker, is discussed by the Assembly; he is replaced by an interim speaker, or by the Deputy Speaker if there is one, for the duration of that discussion.

1.20 The Speaker may not vote, unless to break a tie. He may decline to vote when there is a tie in order to preserve the neutrality of the chair; in such a case, the measure proposed is defeated but must be voted on again within 30 days.

1.21 The Speaker may be removed by a vote of at least two-thirds of the members of the Assembly. The Speaker may not preside over such a vote, nor take part in it. There shall be no referendum on the removal or the conduct of the Speaker.

SESSIONS OF THE ASSEMBLY

1.22 The sittings of the Assembly shall be public.

1.23 The Assembly shall adopt its own rules of procedure.

1.24 The Assembly shall sit at least four times a year. The Speaker shall call each session of the Assembly.

1.25 The salaries and benefits of the members of the Assembly, and of the Government and the Speaker shall be set by the Assembly.

1.26 The Assembly may create committees or commissions made up of its own members, or of other individuals, to investigate or study any matter it chooses.

1.27 The Assembly must keep an official record of its deliberations.

OFFICIAL TITLES

1.28 The Assembly shall adopt the official titles of the leader and the other members of the Government, as well as the official designations of the departments of the Government.

OFFICIAL LANGUAGES

1.29 The official languages of Nunavik are Inuttitut, French and English.

1.30 Every member of the Assembly and the Government has the right to use any of the official languages.

1.31 Everyone has the right to use any of the official languages in Nunavik.

1.32 Everyone has the right to receive information, documentation and correspondence from the Assembly and the Nunavik Government in any of the official languages.

1.33 Everyone has the right to use any of the official languages before the Court of Nunavik.

1.34 Every legal rule, decision or measure adopted in a written form by the Assembly or the Nunavik Government must be adopted in all three official languages before it is deemed to have effect. Transcriptions of the debates of the Assembly shall be made in the original language, and in Inuttitut if French or English is being used.

1.35 Only the French and English versions of a legal rule, a decision or a measure adopted by the Assembly and the Nunavik Government can be applied by the courts, but no version can be applied by the courts unless there exists an official Inuttitut version of that document.

1.36 The Assembly of Nunavik must respect the Constitution and the laws of Canada, including the Charter of Rights and Freedoms.

1.37 The Assembly of Nunavik must respect the laws of Québec, including the Québec Charter of Human Rights and Freedoms.

CONSTITUTION

1.38 The Assembly may adopt a Constitution of Nunavik. The Constitution must be submitted to the people in a referendum.

RECOMMENDATION NO 2

POWERS OF THE NUNAVIK ASSEMBLY

EXCLUSIVE POWERS

2.1 The Assembly shall have exclusive jurisdiction over Inuit language and culture, including traditional knowledge and values.

SHARED POWERS

2.2 The Assembly shall have substantive and effective jurisdiction in the following areas:

- 2.2.1 Education, including post-secondary and adult education;
- 2.2.2 Health including midwifery;
- 2.2.3 Social services, including youth protection, adoption and family services;
- 2.2.4 Communications;
- 2.2.5 Taxation and the use of public funds;

2.2.6 Housing;
2.2.7 Economic development, including development of natural resources;
2.2.8 Municipal affairs, including the creation of municipalities, as well as municipal taxation and funding;
2.2.9 Research and statistics;
2.2.10 Protection of the environment;
2.2.11 Conservation of biodiversity;
2.2.12 Wildlife management;
2.2.13 Land use and planning,
2.2.14 Tourism;
2.2.15 Transport;
2.2.16 Relations with other governments, or with governmental or non-governmental organizations of the Arctic, outside Québec or Canada;
2.2.17 Public security, including police and fire prevention services, as well as civil emergency measures;
2.2.18 Games of chance;
2.2.19 Alcohol and other intoxicants;
2.2.20 Parks, recreation and sports;
2.2.21 The administration of justice, including the creation of local justice committees;
2.2.22 Public works, including public tenders;
2.2.23 Labour relations, including conditions of employment in the construction industry;
2.2.24 Additional powers which may be transferred by the Parliament of Canada and the Québec National Assembly and additional powers which may derived from specific arrangements with the Nunavut Assembly, and Makivik Corporation.

CHAPTER 2 A GOVERNMENT FOR NUNAVIK

As the executive arm of the Assembly, the Government of Nunavik will be responsible for the execution of the laws, decisions and measures adopted by the Assembly. This is to say that it shall act in the same areas of jurisdiction as the Assembly. It is also the Government that sees to the current affairs of the whole apparatus and oversees the public administration. Therefore, the Government is a structure which is meant to operate on a day-to-day basis, unlike the Assembly which is to sit only several times a year.

I. STRUCTURE

The Commission is of the opinion that the members of the executive be directly elected by the population rather than chosen among the members of the Assembly as is the case of provincial and federal parliaments.

There would be at least five elected members of the Nunavik Government, including the leader. After the first election, this number could increase but never to exceed one third of the total number of the Assembly members.

Unlike the members of the Assembly who are to be elected locally, the members of the Government are elected at large, by the whole population of Nunavik. However, as is the case for the Assembly, the Government would be elected for a term of three or four years and they would be elected simultaneously. There would be no limit to the number of terms of individual members of the Government. Mayors and municipal councillors would not be eligible to serve as members of the Government, although they could be elected to the Assembly.

As for the composition of the Government as well as the inclusion or not of its members within the Assembly, the Commissioners could not come to a consensus. In spite of long discussions and as a result of a deep disagreement, they could only agree to submit two models and to refer this whole issue to the three parties to the Political Accord.

Model 1

In the first model, the candidates run for the position of leader or for the other executive responsibilities of the Government and, once elected, they keep their responsibilities for the duration of their term. They are also full members of the Assembly, which means that, in addition to their executive functions, they also sit with the other members of the Assembly and, as such, fully participate in its legislative function.

Some Commissioners favour this model because it is already practised in Nunavik. In their view, the formula has evolved with time and experience and now works well. They also believe that this model is a Nunavik innovation and the people in Nunavik have become familiar with it and feel well represented through it.

Other Commissioners have stated that such a model would create an unequal status between the members of the Assembly who are to be elected locally, and those elected regionally. They are concerned that the members elected regionally to run the Government would indeed be in a position to control the Assembly, thus affecting the very democratic life in Nunavik.

Model 2

In this second model, only the leader is elected as such, and he is the one to assign the specific executive responsibilities to the other persons elected with him to run the Government. The leader may change those responsibilities from time to time during the term of the Government. The Government members, once elected, are not members of the Assembly but they have the right to appear before it and speak on any issue being considered by the Assembly. In turn, the Assembly, or one of its committees, would have the power to compel a member of the Government to appear before it.

Some Commissioners favour this model because the formula, besides being innovative, makes a clear distinction between legislative and executive powers, thus preserving a necessary balance between the two. By allowing the leader of the Government to assign himself the responsibilities to his colleagues, there would be more flexibility in the executive.

On the other hand, some Commissioners feel that the executive in this model would be weakened by being left out of the law-making process. They also feel that the people of Nunavik have expressed a preference for an election where candidates run for pre-assigned executive responsibilities; they sense in this case that they have a better control over the choice of Government members.

II. FUNCTIONS

The Nunavik Government shall hold and exercise the executive powers that are found in most governments within their areas of jurisdiction. It shall manage the day-to-day affairs, direct the civil service, establish relations with other governments and organizations, and access tax and non tax revenue. It shall set policies, programs, regulations, and administrative procedures. It shall act in the same areas of jurisdiction as the Assembly.

In addition, it shall have the power to enter into contracts, to buy, own and sell property, to negotiate collective labour agreements, to borrow, to conclude intergovernmental agreements and to become a member of intergovernmental or aboriginal organizations within Québec, within Canada, or internationally.

The Nunavik Government, like the Government of Canada or the Government of Québec, must not act without being legally authorized to do so. It must make its decisions within the framework of the Constitution of Canada, the applicable laws of Canada and Québec, and the laws adopted by the Nunavik Assembly.

III. PUBLIC ADMINISTRATION

In order to properly fulfill all of its functions, the Nunavik Government will have to establish a public administration composed of civil servants. In chapter 1 of this Report, it has been said that the Nunavik Assembly shall replace the Board members of KRG, KSB, NRBHSS and of Avataq Cultural Institute. In the same manner, it is understood that the non elected officials and employees of those organizations will be transferred to the Nunavik Government. All of these employees coming from different horizons and experiences, will then be merged into a single body of public administration, under the supervision of the government.

With respect to institutions which are to maintain their corporate identity, namely TNI, KMHB, KRDC and Inulitsivik and Tulattavik Hospital Corporations, they shall keep their respective personnel, while falling under the jurisdiction of the Nunavik Government.

RECOMMENDATION NO 3

THE NUNAVIK GOVERNMENT

3.1 There shall be a Nunavik Government elected directly by the whole population of Nunavik.

3.2 There shall be at least 5 elected members of the Nunavik Government, including the leader. After the first election, the Assembly may subsequently increase this number but never to exceed one third of the total number of the Assembly members.

3.3 The Government members shall be elected for a term of three or four years, as for the Assembly members.

3.4 The Nunavik Government must respect the Constitution of Canada, including the Charter of Rights and Freedoms, as well as applicable federal legislation.

3.5 The Nunavik Government must respect the laws of Québec, including the Québec Charter of Human Rights and Freedoms.

3.6 The decisions of Nunavik Government must be authorized by the Nunavik Assembly.

3.7 All officials and employees of KRG, KSB, NRBHSS and Avataq Cultural Institute shall be transferred to the Nunavik Government.

IV. DECENTRALIZATION

The subject of government decentralization and the devolution of responsibilities and facilities to local communities were not dealt with directly during the public hearings. However, it would not be overstepping popular will of the people of Nunavik to consider the many calls for an efficient, effective, autonomous form of government as an appeal to give communities a major role in public decision-making.

The creation of a Nunavik Government constitutes in itself a move toward decentralization in which the Québec and federal governments will transfer powers to public institutions whose members will be chosen by the Nunavimmiut. However, the benefits of this transfer of powers will be limited without taking advantage of opportunity to accentuate the role of local communities.

There exists a form of decentralization that calls for the distribution of government offices among a number of communities rather than concentrating them in the capital. This option has many pitfalls. For example, it is very difficult to persuade civil servants to move to the region's smaller localities. The problem is compounded by a lack of housing. Moreover, the need for authorities to be in close contact with their employees makes such decentralization complicated, even inefficient. As for the economic spin-offs, the benefits are often limited to an increase in the number of civil servants in the communities without there necessarily being more job opportunities for the local population. Lastly, and most importantly, the option does not give local communities more of a say in decisions concerning them.

The Nunavik Commission therefore does not advocate promoting this form of decentralization. This does not mean, however, that the Commission deems it necessary to locate all government activities in the same locality. In the Commission's opinion, it would be preferable to leave all current decentralization measures in place. Thus, the cultural services presently offered in Inukjuak would continue to be available there; similarly, Taqramiut Nipingat Inc. (TNI) would continue to operate out of Salluit. In addition, education and health services that are already available in various locations in Nunavik, or that will soon be made available, would be maintained.

The Commission advocates another form of decentralization, which consists in giving more responsibilities to local authorities so as to place the seat of power as close as possible to the people. In most cases, the best solution would be to vest power in the municipal councils, as municipalities are political entities that are both close and well known to the people. The elected members of these councils are located where many services are actually needed and, with adequate resources, are in the best position to respond in an appropriate and immediate manner.

For instance, property management could be handed over to municipalities and they would be responsible for overseeing public buildings, social housing, and housing for public-sector employees. Municipalities are already active in this area, and they could be entrusted with all of the human and financial resources necessary to take charge of this key sector in the North.

In addition, Nunavik municipalities could be invested with wider functions in social services by becoming a response centre mandated to meet local needs rather than using specific organizations.

Clearly, the transfer of powers should be done gradually to give municipalities the opportunity to adjust to their newly assumed responsibilities. A training program could be implemented locally prior to the transfer, thereby making it possible to hire people from the community.

Of course, there could be other local organizations to meet special needs that require organizational structures and operations that are incompatible with those of municipal administrations. The Hospital Corporations would be a good example of such a possibility, although the final decision on the roles of such bodies should be left up to a Nunavik Assembly. Specific recommendations are made in other parts of the report with respect to such organizations.

RECOMMENDATION NO 4

DECENTRALIZATION

4.1 Each time responsibilities are transferred to the Nunavik Government, the appropriateness of decentralizing the responsibilities in whole or in part to local authorities should be analyzed, with municipal administrations being the preferred entities for assuming some of these new responsibilities. This analysis should take into account, in addition to the administrative principles of simplicity and efficiency, the principles relating to local autonomy and to the social and economic development of communities.

4.2 The transfer of powers to the local level should be preceded by the implementation of training programs for local employees; the human, technical and financial resources necessary to exercising the powers must be provided at the time of the transfer.

V. THE CAPITAL

A debate concerning the designation of a capital for Nunavik did not really emerge during the public hearings and few representations were made on the subject.

Nonetheless, whether the government activity is decentralized on a small or large scale, the question of designating a capital must be addressed. It is almost inevitable that services and facilities will be concentrated to some extent in order to promote exchanges within the Nunavik Government and enhance certain economies of scale. Moreover, the location of the seat of a Nunavik Assembly and Government is undeniably important both symbolically and economically.

The Commission does not intend to designate the place where a Nunavik Government activities will be concentrated. The choice should be made by the people of Nunavik. Thus, a referendum seems the most judicious way in which to determine the location of the capital.

RECOMMENDATION NO 5

THE CAPITAL

5.1 The choice of a capital for Nunavik should be made by way of a referendum. Communities interested in being designated the capital would submit their application, and the list of applicants would be put to popular vote.

CHAPTER 3 A JUSTICE SYTEM FOR NUNAVIK

The design of a new government for Nunavik would not be complete without specific proposals on the justice system. Indeed, as stated earlier, a government structure is composed of three branches: the legislative which is to pass the laws, the executive which is to execute them, and the judiciary whose function is to interpret and apply the laws.

The Commission recommends some basic elements of a justice system which would then be integrated in the justice systems of Québec and Canada.

I. A COURT OF NUNAVIK

Both the Inuit Justice Task Force Report and the Coutu Report recommended the creation of a new judicial district in Nunavik, distinct from the judicial district of Abitibi. This judicial district would have at least one full-time judge of the Cour du Québec, with jurisdiction over criminal, youth protection and civil cases. The district would also have a resident Crown attorney. The Nunavik Government should be involved in the selection of these judges and Crown attorneys. Its representatives should have the opportunity to meet the candidates for these positions before they are officially selected by the Government of Québec. They should be named by Québec only after prior approval by the Nunavik Government. Also, judges and Crown attorneys should receive special training, upon their appointment and at regular intervals thereafter, to better prepare for the specific conditions of their work in Nunavik.

A judicial district in Nunavik would allow the Court to visit the communities more regularly, to reduce travel costs for the judges, the attorneys, judicial staff, inmates and police, and to create a greater sense of belonging between Nunavik society and the judicial system. A small-claims court might be established as well. Eventually, a court with the combined jurisdiction of a superior court, which treats the major criminal offenses, and the provincial court, could be put in place as is now the case in Nunavut, if there are no constitutional impediments.

II. JUDICIAL REVIEW

In addition to the foregoing, it must be made clear that anyone who has legal standing, particularly any person or corporation residing or active in Nunavik, may challenge any law adopted by the Nunavik Assembly or measure taken by the Nunavik Government in the appropriate court, which could be the Court of Nunavik or the Superior Court of Québec. This is a fundamental right that flows from the constitutional principle of the rule of law, which has been affirmed many times by the Supreme Court of Canada. This right may not be denied by any

governmental authority. For example, a law adopted by the Assembly of Nunavik that would be incompatible with the Canadian Charter of Rights and Freedoms or another part of the Constitution of Canada, would be struck down by the courts.

This is to say that, while the Nunavik Assembly has a direct link of authority over the Government, it has no authority whatsoever over what the courts may decide.

The same may be said about the Nunavik Government which will have no say in the courts decisions and, like any government in Canada, it will have to abide by their decisions. However, it is understood that the Nunavik Government may have to provide the courts with some administrative support such as housing and salary for the court's staff.

Finally, the Commission also advocates the creation of local Justice Committees, as elements of a community-based justice system, and other elements which are aimed at instilling the justice system of Nunavik with Inuit ways and values. But all of these elements, because of their close relationship with other social issues, will be addressed within chapter 7 of this Report.

RECOMMENDATION NO 6

A JUSTICE SYSTEM FOR NUNAVIK

6.1 A new judicial district should be created in Nunavik. This judicial district should have at least one full-time judge of the Cour du Québec, with jurisdiction over criminal, youth protection and civil cases. The district should also have a resident Crown attorney. Both the judges and the Crown attorneys should be named by the Government of Québec only after prior approval by the Nunavik Government. These judges and Crown attorneys should receive special training, given jointly by both governments. The Court should be called the Court of Nunavik.

PART TWO
PUBLIC FINANCES

■

Will we now start paying three sets of taxes when Inuit get their own government? Will our institutions, such as the co-ops and others, be slapped with even more taxes to pay? Or, are we about to be endowed with true power, with the taxes we have had to pay to the federal and Québec governments eliminated, giving us autonomy?

Paulusie Kasudluak,
Public Hearings, Ivujivik, March 13, 2000

■

We are seeking legislative power, and the Political Accord is the basis for this building of our future. On the matter of the government tax dollars used every year in our communities, stated earlier to be over $20 million a year; can these dollars become the business of the new government? Will rules governing these dollars continue to be as present, or, can the new government have discretion over how these dollars are used and allocated? For example, could they have authority to determine shifting the use of these monies in the areas of health and education?

Maggie Emudluk,
Public Hearings, Kangiqsualujjuaq, January 21, 2000

■

I am also certain that there exists the resources in the Arctic to realize this. Johnny Adams has just explained how finances are searched out, identified and distributed according to needs. I believe there exists the means to do this in our future. I encourage you not to fear what has to be done; I would not say it cannot be done. We continue to be dependent on the governments, and probably will be for the foreseeable future. But there is a great wealth of unexploited resources just beginning to be looked at which will help make this work.

Putulik Kullulak,
Public Hearings, Quaqtaq, January 24, 2000

■

PUBLIC FINANCES

CHAPTER 4 REVENUE AND EXPENDITURES OF THE NUNAVIK GOVERNMENT

Public finances are a pillar of the operation of any government. The following chapters focus upon the main issues related to finances: the financing relationship between the Nunavik Government and the Governments of Canada and Québec, the importance of autonomous and sound revenue, the main powers and rules related to expenditures, the budgeting and accountability processes.

I. RELATIONS OF A NEW TYPE

The Royal Commission on Aboriginal Peoples stated that "a renewed relationship [between the Aboriginal Peoples and the government] requires fundamentally new fiscal arrangements". The institutions proposed in the previous chapters are so far removed from the current situation prevailing in the existing public administration in Nunavik that administrative rearrangements alone would not be enough to achieve the political autonomy sought with the creation of a Nunavik Government. These institutions will be able to exercise their powers adequately if they have the necessary means at their disposal. Legislation and regulations constitute privileged means for giving tangible form to the collective choices of Nunavik; the capacity to allocate public funds in accordance with these choices is also a means of decisive importance. Allowing the Nunavik Government to exercise this capacity presupposes that relations of a new type must be devised between the governments of Canada and of Québec and the Nunavik Government.

To that effect, the Nunavik Commission brings forward its orientations in the public finance field, orientations that ensue from the guiding principles adopted for all its recommendations.

As a public government, the Nunavik Government must be able to raise the necessary resources through access to taxation and by means other than taxation, in particular through the continuation of transfer payments. Compared to the present-day situation, it is necessary to consolidate in a single budget the resources intended for public services in Nunavik and to entrust the power of making appropriate decisions to the institutions of the Nunavik Government.

These fundamental changes must however preserve benefits brought to Nunavik from 25 years of the JBNQA implementation. Provision must be made for redoubling efforts not only to preserve existing services, but also to ensure that such services are brought up to an appropriate level. Moreover, access to new government initiatives will have to be preserved in order to continue the efforts that

have been ongoing for decades to improve the conditions of the citizens of Nunavik.

Moreover, during the public hearings, the residents reiterated before the Nunavik Commission that they already pay their fair share and perhaps more than their fair share of taxes. In this respect, mention may be made of the sales tax, which is added to the prices of consumer goods that are already higher due to elevated transportation costs. The Nunavik Commission has often pointed out that its recommendations would definitely not suggest increasing the tax burden supported by the taxpayers of Nunavik. On the contrary, the Commission is of the opinion that the major changes resulting from the creation of a Nunavik Government must simplify the current situation. However, for this, it is imperative that all of the decisions pertaining to the creation of a Nunavik Government be examined according to their impact on the tax regime, and that they be harmonized with one another.

The exercise of political power does not only mean the allocation of available resources; it also means the legitimate use of resources and the rendering of accounts to tax payers. The revenue and expenditures of a public government must be made in accordance with clearly set out rules and processes. Additionally, the Nunavik Government will have to operate in an effective and efficient manner, and apply an economy of scale in the use of its resources. Ultimately, it will have to be responsible for the consequences of its actions.

II. ACCESS TO TAX REVENUE

Access to tax revenue is a basic element of government autonomy. Indeed, the ability to raise various types of taxes gives a government the means to implement decisions for the public good, which taxpayers are then called upon to approve or reject when electing their political representatives. Consequently, a Nunavik Government must have the power to have access to tax revenue and must assume the ensuing duty, namely that of rendering appropriate accounts. In general, a public government can: levy taxes on personal and corporate income as well as sales taxes; impose fees for the provision of services and the issue of permits and licences; impose fines; collect revenue from games of chance or government corporations. The Nunavik Commission believes that access to these sources of revenue is essential, provided that the terms and conditions of such access are defined. The Commission is also of the opinion that realistic tax revenue projections are required; indeed, under the current conditions, the financial needs of a Nunavik Government largely exceed the region's fiscal capacities.

Taxes

A Nunavik Government must be able to intervene in the taxation field. However, in all the villages where the Nunavik Commission held public hearings, it heard the region's taxpayers express the difficulties that they face under the current tax system. Access to the power of taxation for the Nunavik Government must be compatible with the wish, expressed numerous times, of not creating a new level of taxation in addition to the federal and provincial levels. That is why the Nunavik Commission is proposing two provisions.

The first provision gives the Nunavik Government the ability to intervene in tax rates, with respect either to income tax or to sales tax. As is currently the case in Nunavut and Greenland, the Nunavik Government might decide on downward or upward variations in the tax rates imposed by the federal or provincial levels. To preserve the coherency of Québec and Canadian policies, this power should be limited by a minimum and a maximum percentage, set during the negotiations preceding the creation of the Nunavik Government. This provision could be used to lessen the tax burden on certain categories of taxpayers. On more than one occasion, the Nunavik Commission was informed that the price of fuel and equipment represents a major disincentive to the activity of hunters; such a provision could even make it possible to favour households that rely mainly on hunting and fishing, by lowering taxes on fuel purchases, for instance.

The second provision calls for the systematic reimbursement to the Nunavik Government, by the Government of Canada and by the Government of Québec, of the income tax and other taxes raised in Nunavik. To underscore the fact that Nunavik belongs to Canada and to Québec and must contribute to public service expenditures elsewhere in the country, this reimbursement should however not be in full. During the negotiations preceding the creation of a Nunavik Government, there should be an agreement on the proportion of these revenue that the governments of Canada and Québec should keep.

These two provisions translate the basic principle of the creation of a public government enjoying substantial and effective autonomy, while avoiding the creation of a new level of taxation, which would increase the already heavy tax burden supported by Nunavik taxpayers. Moreover, these provisions would be powerful symbols of the support of the Government of Canada and of the Government of Québec for the level of autonomy enjoyed by the Nunavik Government.

Economic rents and royalties

The Nunavik Government should obtain shared jurisdiction over the territory and its resources, as proposed in chapter 9. These powers must be complemented by a sharing of economic rents and royalties obtained from the exploitation of the territory and its resources. Indeed, access to this shared jurisdiction is amply justified by the fact that the Nunavik Government is a public form of government founded on a territorial base and by the fact that rents and royalties could be the main source of self-revenue in a sparsely-populated area.

This issue is vast and complex. It comprises numerous and different situations, such as the construction and operation of small-size outfitting camps or industrial mega-projects, mining or hydroelectric developments for example, with each of these situations leading to specific types and levels of economic rents or royalties. The Nunavik Commission does not have sufficient data to present detailed recommendations concerning each branch of activity in question or each type of economic rent or royalty, or to propose, with a full knowledge of the facts, a precise formula for sharing these tax revenue. However, the Commission maintains that economic rents and royalties must be shared between the Nunavik Government and the Government of Québec, and that the terms and conditions of this sharing must be determined during the negotiations preceding the creation of the Nunavik Government. This idea of sharing wealth coming from land and resources has been implemented in Greenland within the arrangements between the Danish and the Greenlandic Governments.

Fees, fines and dividends of public enterprises

The Nunavik Government must be able to impose fees for the issue of licences and other documents, and fines in the event of the violation of regulations. Indeed, this is a complementary tool for the Nunavik Government to enforce its laws and regulations. There is a large variety of licences and permits and fines according to the list of powers that the Nunavik Government will have, presented in chapter 1. Some of these powers are exclusive whereas others are shared; as a result, in some cases, the fees and fines should only be imposed by the Nunavik Government, whereas in other cases, prior discussions should be held between the Nunavik Government and the Government of Canada and the Government of Québec to determine the roles of each level of government. A careful examination is required in this field, and should be carried out during the negotiations preceding the creation of a Nunavik Government.

The Nunavik Commission indicates in chapter 9 that some fields should be the subject of special attention during these discussions, namely: the issuing of licences in such fields as mining exploration, the operation of hunting and fishing outfitting

establishments, the operation of food processing establishments for regional trade purposes, the imposing of fines in the case of violation of the conditions stipulated in the licences and permits, and the issuing of licences concerning games of chance and sales of alcohol.

Finally, the Nunavik Government must be able to create public service enterprises that would pay it dividends, where applicable. Indeed, the creation of a public service enterprise represents a tool for implementing certain policies. The Government of Greenland has several enterprises of this nature, which allows it to maintain fairly uniform prices for everyday consumer goods, regardless of the remoteness of the villages in which Greenland citizens reside.

Limits on fiscal sources

Access to tax revenue is necessary for the creation of a Nunavik Government, as has already been established. However, within the economic context of Nunavik, this access is insufficient to cover public expenditures at their current level. The expenditures of the Government of Canada and of the Government of Québec in Nunavik totalled in 1998 some $243 million per year (72 percent spent by Québec and 28 percent by Canada), based on the data made available to the Nunavik Commission. Income tax would represent a maximum of $21 million; all tax revenue, including sales taxes, would total approximately $35 million, representing 14 percent of expenditures. In other words, even if all tax revenue raised in Nunavik were used to pay the costs of public services, it would still be necessary for the Governments of Canada and Québec to pay some $208 million (in 1998 dollars), namely 86 percent of the total.

In Nunavik, expectations expressed in the public hearings appeared high concerning the revenue that could eventually be generated from economic rents and royalties in the hydroelectric and mining sectors. Yet the mining royalties currently obtained from mining activity in Nunavik are well below $1 million annually. They could be greater if this activity were to increase, through the mining of a diamond deposit for example. The royalties obtained from diamond mining in the Northwest Territories would total some approximately $35 million annually; if a similar development were to materialize in Nunavik, this sum would represent some 14 percent of the costs of public expenditures.

Other sources, which did not exist in the past, could be exploited in the future. The JBNQA contains no provision stipulating a sharing of income obtained from the exploitation of the territory's hydroelectric resources between the various signatories. However, there are indications that Hydro-Québec now sees the sharing of revenue with interested partners as the wave of the future. Hydro-Québec has actually offered five regional county municipalities of the North Shore and the Lac-

Saint-Jean regions, under certain conditions, the possibility to share a portion of the profits eventually obtained from the sale of electricity following the diversion of rivers flowing on their territory.

The Nunavik Commission believes that one must be careful not to count on the hope of major revenue from economic rents and royalties for the funding of public services. Indeed, governments, and particularly regional governments, have little influence over decisions in the mining and energy fields, when compared to world economic factors such as prices and demand. Moreover, the setting of rents and royalties results in additional costs which the governments in question must take on. Based on the recommendations of this report, these royalties must be shared between the governments in question, which reduces the portion intended for the Nunavik Government. Finally, massive resource development can be detrimental for the environment which is certainly not a suitable future.

The other sources of tax revenue would have an even more limited potential. The revenue from licences, permits and fines are limited by their very nature; the presence of enterprises owned by Makivik Corporation, as well as the various corporations of Québec and Canada, limit the potential revenue that a Nunavik Government might obtain from the payment of dividends by public enterprises.

III. ACCESS TO NON-TAX REVENUE

Pursuit of equity

Transfer payments will remain essential for the budget of the Nunavik Government. These payments are made according to the government redistribution function, which leads the State to redirect towards regions that are less well-off economically the revenue raised in regions that are more well-off, in order to foster equity between citizens. This principle is commonly applied in the Arctic. For instance, Denmark covers some 60 percent of the budget of the Government of Greenland through transfer payments. The same is true for Canada where the federal government covers some 72 percent of the budget of the Government of the Northwest Territories and some 95 percent of the budget of the Government of Nunavut. If no change were made in the sharing of tax revenue, an almost identical proportion of the budget of the Nunavik Government would have to be covered by transfer payments from the Government of Canada and the Government of Québec. The Nunavik Commission believes that the pursuit of equity between citizens must motivate the maintaining of the current level of transfer payments that are made to the public service organizations of Nunavik.

Consolidation of transfer payments

The transfer payments directed to the public services of Nunavik are the result of multiple agreements, come from various departments of the Governments of Canada and Québec, and follow various rules for their allocation, their use and accounting, etc., with the end result that regional public service organizations must use an important share of their resources for these operations rather than providing services to citizens. The Nunavik Commission believes that it is imperative to consolidate these transfer payments in a single block funding agreement for each of the two levels of governments, in order that a greater portion of the available funds be directly used to provide services to citizens.

IV. BLOCK FUNDING AGREEMENTS

The four block funding principles

Annual block funding is one of the major means for giving substantial and effective form to the autonomy of Nunavik, as it will provide the Assembly and the Government with the ability to allocate public funds to implement collective choices.

The Nunavik Commission does not have the required data to put forth concrete rules concerning block funding and believes that the negotiations on this subject will have to be carried out prior to the creation of the Nunavik Government. Nevertheless, based on the results of its consultations, the Commission is able to set four general principles to guide negotiations.

Firstly, given the division of jurisdictions between the various levels of government in the country, the Nunavik Commission believes that it is necessary to provide for two block funding agreements that the Nunavik Government would conclude, on the one hand with the Government of Canada, on the other with the Government of Québec.

Secondly, the Nunavik Commission believes that it is essential that the block funding agreements be deliberately clear to prevent the erosion of power of elected officials at its very base. The funding agreement between the Government of Canada and the Government of Nunavut, for example, appears to be extremely complex and technical. This situation limits the power of elected officials, because a basic part of their responsibilities escapes them, namely the composition of the budget. The Commission believes that the Greenland block funding agreement model, the result of calculations based on a limited number of basic indicators such as increases in prices and wages, and ratified through negotiations, should be

examined in detail in the process to negotiate the block funding agreements for Nunavik.

Thirdly, block funding agreements should be concluded annually for the first five years. But to allow the parties to make adequate planning, each agreement should contain projections for a period of three to five years. Moreover, the method used to calculate the sums in question should permit an annual revision of the process and the figures during the first five years of its application; this exercise would make it possible to improve the method based on experience, in order to arrive at the best possible formula. Thereafter, there should be a possibility to make periodic reviews.

Finally, each block funding agreement should make it possible to preserve the guarantees found in the JBNQA, and preserve the advantages of any formula financing arrangements currently in effect. Likewise, it should preserve the actual level of services and funding currently provided, and the access to the new programs of the governments of Canada and Québec. It should also include provisions having a limited duration, some to permit the upgrading of public services in certain fields, others to cover the expenditures associated with the creation of the Government of Nunavik.

Basic components of a block funding agreement

A block funding agreement should contain three basic components. Firstly, it should include the portion reimbursed to the Nunavik Government of the tax revenue raised in the region. Secondly, it should include the main allocation for the operation of institutions and the delivery of public services. Thirdly, it should include the sums required to make transfer payments to individuals under programs for which the Nunavik Government will be responsible. Finally, it should include an additional element for a transitional period, intended to cover the capital costs of the creation of the Nunavik Government, as well as the costs of upgrading public services.

The first component comprises the share of the proceeds from income tax and other taxes raised by the Government of Canada and by the Government of Québec. This component takes into account the decisions of the Nunavik Government modifying tax rates. The Nunavik Commission believes that it is essential that the Nunavik Government takes on full responsibility in the exercise of its power to intervene in the taxation field; as a result, it must be ready to accept an upward or downward variation in tax revenue, depending on the policies that it adopts in this field.

This first component also comprises the sharing of the proceeds from economic rents and royalties and, as the case may be, other tax revenue collected in the region by the Government of Canada and by the Government of Québec, which the

latter has agreed to share with the Nunavik Government. While the sums in question may be limited, as was previously established, the proceeds may vary considerably according to the economic situation and give rise to discussions on the relevance of reducing by a corresponding sum the other components comprised in the block funding agreement. The Nunavik Commission is of the opinion that an increase in this type of revenue must not lead to a corresponding decrease in the other components comprised in the block funding agreement. Indeed, such a measure could discourage government initiatives to develop the territory and its resources.

The second component refers to the main allocation for the operation of institutions and the delivery of public services. It consolidates all of the transfer payments currently paid to each public service institution that will enter into the Nunavik Government. It also includes the additional recurrent costs resulting from the creation of the Nunavik Government, for the operation of the Assembly, the Government, the Nunavik Wildlife Commission and the Nunavik Environmental Commission, and other agencies. The calculation of this element should be made according to the real costs of public services during a multiyear reference period preceding the creation of the Nunavik Government, and increased annually according to basic parameters having a direct impact on the costs of public services, for example: increase in the population, the actual consumer price index, the increase in wages and costs associated with collective agreements. Finally, this component includes the recurrent additional costs resulting from the upgrading of public services.

The third component takes into account the sums required to make the transfer payments to citizens under the programs for which the Nunavik Government will be responsible. This element will have to be the subject of a projection for the purposes of the payment of block funding prior to the start of the financial year, and an adjustment at the end of the financial year to cover the actual costs of the programs. As the variations in the sums in question will come from the application of federal and provincial government programs, and fluctuations in the number of citizens eligible for the benefits of these programs, these variations should not result in corresponding variations in the other components comprised in the block funding agreement.

Finally, a block funding agreement should include an additional component for a transitional period of three to five years, intended to cover the capital costs of the creation of the Nunavik Government. This includes, if necessary, the construction costs associated with public buildings to house the Assembly, the Government, the Nunavik Wildlife Commission and the Nunavik Environmental Commission, and other agencies. It also comprises the funds required for the capital endowment of these two Commissions, and the capital cost of upgrading public services.

Structural changes within the framework of a block funding agreement

The conclusion of block funding agreements with the governments of Canada and of Québec supposes basic changes in the way they work, if not in their very structures. These two governments will have to designate, in their respective structures, a single window for the purpose of negotiating, concluding and implementing funding agreements with the Nunavik Government. In making these recommendations, the Nunavik Commission is aware of the scope of the challenge but believes that the single window approach is essential in order to arrive at the necessary funding agreements.

V. EXPENDITURES, SURPLUSES AND DEFICITS

The power to spend

The Nunavik Government will have to exercise this power effectively and efficiently. As a result, the overlapping of services will be reduced, if not eliminated completely, and in some cases the Nunavik Government will seek to enter into cooperation agreements with the other levels of government rather than creating its own services. For example, the powers of the Government of Nunavik to change tax rates, to share economic rents and royalties, and to impose fees or fines, and to receive other tax revenue must not lead to the creation of an administration that would overlap administrations that already exist for these purposes. It would be unjustified to create a government agency in Nunavik to collect personal and corporate income tax, other taxes, economic rents, royalties and other revenue; this operation would constitute an unwise use of government funds, which would no longer be available to provide services to the population; it would unduly complicate the fiscal obligations of Nunavik taxpayers, who have often stressed how heavy the existing burden is.

Denmark and Greenland concluded an agreement whereby income tax is collected by the Danish Government, which then remits to the Greenlandic Government its share; there is a similar agreement between the governments of Canada and Nunavut. Such an agreement should exist between the Nunavik Government and the other levels of government involved, with respect to income tax and other taxes, economic rents and royalties, and several other cases involving tax revenue. The Nunavik Commission proposes that these discussions be held at the time of the negotiations preceding the creation of the Nunavik Government.

Respect for general programs

On more than one occasion, the citizens of Nunavik have told the Nunavik Commission that they expect nothing less than the level and quality of services made available to their fellow citizens in the southern part of the country. Consequently, a Nunavik Government should provide services at a level of quality that meets or exceeds current requirements.

The Political Accord from which the Nunavik Commission draws its mandate stipulates that the reality of the Arctic must be taken into consideration in the formulation of recommendations. This expectation of the Political Accord is particularly true in the public service field. For example, rules of social aide benefits can be detrimental to some families that are forced by housing shortage to share a roof with another family. The Nunavik Government should be able to choose to provide alternative and adapted services, to take into account the reality of the Arctic. The Nunavik Commission believes that this question should be the subject of in-depth discussions during the negotiations that should precede the creation of the Nunavik Government. The agreements ensuing from these negotiations should include provisions allowing the Nunavik Government to make reasonable changes in the delivery of public services, taking into account the reality of the Arctic. The effect of these changes should not be to reduce the transfer payments paid by the Governments of Canada and Québec.

Borrowing power

The Nunavik Government must be able to borrow funds to finance capital expenditures and to maintain adequate cash flow.

Fiscal immunity

The Nunavik Government must be able to benefit from fiscal immunity to avoid the costs associated with the payment and refund of taxes between different levels of government.

Surpluses and deficits

The block funding agreements should take into account the upgrading of public services, the costs of the creation of the Nunavik Government, as well as new needs, new programs and exceptional or emergency situations. In this context, the Nunavik Government must take on and manage any surplus or deficit. Consequently, the surplus of a given fiscal year must not be identified as a reason for reducing the sums contemplated by the block funding agreements for the

following year, just as the deficit of a fiscal year would not justify an increase of these sums.

RECOMMENDATION NO 7

REVENUE AND EXPENDITURES

ACCESS TO TAX REVENUE

7.1 The Nunavik Government shall be able to have access to tax revenue. More specifically, it shall be able:

- 7.1.1 to intervene in the income tax and sales tax rates;
- 7.1.2 to receive a major share of the income taxes and other taxes raised in Nunavik;
- 7.1.3 to receive a share of the economic rents and royalties obtained from the development of the territory and its resources;
- 7.1.4 to impose fees and fines;
- 7.1.5 to receive dividends from public service enterprises.

ACCESS TO NON-TAX REVENUE

7.2 The Nunavik Government shall be able to have access to non-tax revenue. More specifically, it shall be able to receive transfer payments that are at least equivalent to the current level of transfer payments allocated to the public service organizations of Nunavik.

BLOCK FUNDING AGREEMENTS

7.3 The Nunavik Government shall be able to conclude two block funding agreements, one with the Government of Canada, and one with the Government of Québec. The block funding agreements shall:

- 7.3.1 be clear and concise;
- 7.3.2 be concluded on an annual basis, but provide for longer-term projections;

7.3.3 be calculated according to a method revised annually during the first five years of its application, then revised periodically thereafter;

7.3.4 preserve the guarantees found in the JBNQA; the present level of service and funding; access to funding for upgrading services, for new programs, and for exceptional and unexpected situations or emergency;

7.3.5 include, as a basic component, the portion of the tax revenue raised in the region and reimbursed to the Nunavik Government;

7.3.6 include, as a basic component, the main allocation for the operation of the institutions and the delivery of public services;

7.3.7 include, as a basic component, the sums required to make the transfer payments to individuals, for which the Nunavik Government will be responsible;

7.3.8 include, as an additional element of a limited duration, the sums intended to cover the capital costs of the creation of the Nunavik Government and related institutions and agencies, and the capital costs of upgrading public services.

STRUCTURAL CHANGES

7.4 For the purposes of the funding agreements, the Government of Canada and the Government of Québec, shall respectively provide for a single window to the Nunavik Government.

PUBLIC EXPENDITURES

7.5 The Nunavik Government shall be able to spend its resources in the general interest and for the welfare of Nunavik and its residents with effectiveness and efficiency, responsibility and wisdom. More specifically, the Nunavik Government shall:

7.5.1 provide services whose quality meets or exceeds current standards;

7.5.2 be able to use its resources to provide alternative or adapted services to take into account the arctic reality of Nunavik.

BORROWING POWER

7.6 The Nunavik Government shall be able to borrow funds.

FISCAL IMMUNITY

7.7 The Nunavik Government shall benefit from fiscal immunity.

SURPLUSES AND DEFICITS

7.8 The Nunavik Government shall be responsible for its surpluses and deficits.

CHAPTER 5 PUBLIC FINANCE PROCESSES OF THE NUNAVIK GOVERNMENT

To adequately meet its responsibilities, the Nunavik Government must adopt explicit and foreseeable rules and processes. Like all the other governments of the country, the Nunavik Government must prepare a budget, control its expenditures, and render accounts. The following pages are devoted to these issues.

I. BUDGETARY PROCESS

Fiscal year

The fiscal year of the Nunavik Government should be identical to that of the Government of Canada and of the Government of Québec, namely from April 1st to March 31st.

Preparation and adoption of a revenue and expenditure budget

Prior to the start of each fiscal year, the Nunavik Government must submit to the Nunavik Assembly for its approval a budget identifying the revenue from all sources and the funds allocated for each government mission, department or program, and by detailed budget items. The Nunavik Assembly shall adopt the budget, after having examined it.

Expenditure control

The adopted budget reflects the political choices of the Nunavik Assembly. The Nunavik Government, responsible for implementing the budget, must respect these fundamental choices. The Nunavik Government must designate a Controller of finance to assist in this task. The mandate of the Controller of finance is to ensure that all of the expenditures of the Nunavik Government are directly related to the budget decisions of the Nunavik Assembly, to make sure that the necessary funds are available to cover the expenditures, and to advise the Nunavik Government if any one of these conditions is not met. As the Controller of finance is involved in daily operations, he reports to the Nunavik Government; however, his critical stands related to government executive styles and administrative practices must not be a reason to terminate his contract. The Controller of finance may be heard by the Nunavik Assembly at his request or at the request of the Assembly.

Procurement policy

The Nunavik Assembly shall adopt a procurement policy that provides for the rules applicable to the awarding of contracts by the Nunavik Government. These rules shall comprise a public call for tender process.

Approval of loans

The Nunavik Government must obtain the Assembly's approval for each loan intended to fund capital expenditures. The Nunavik Government should have the general power to itself authorize loans intended to maintain adequate cash flow.

II. PUBLIC ACCOUNTS AND AUDITING

Preparation and adoption of public accounts

At the end of each fiscal year, the Nunavik Government must submit to the Nunavik Assembly for its approval the public accounts presenting the results of the year, identifying the revenue from all sources and the expenditures incurred for each government mission, department or program, and by detailed budget items. In addition, each contract awarded and each transfer to legal persons, enterprises or non-profit institutions, of an amount to be determined by the Nunavik Government, must be precisely identified in the public accounts, to ensure the complete transparency of the administrative processes. Finally, the public accounts should present the balance sheet, as well as a detailed account of each loan authorized by the Assembly and the Nunavik Government.

Auditing of accounts

The public accounts reflect the way in which the Nunavik Government has applied the political choices of the Nunavik Assembly. The Nunavik Assembly must designate an Auditor to assist in this task. The Auditor's mandate is to examine public accounts to assess the accuracy of the accounts and the relevance and effectiveness of the accounting methods, as well as the government's practices with respect to public funds, in particular, but not exclusively, in the awarding of contracts and the granting of subsidies and loans. The Auditor is also mandated to make appropriate recommendations to improve practices in order to ensure that they are more in line with the rules of good government. Each year, the Auditor presents his conclusions in a report that he submits to the Nunavik Assembly. To preserve the auditor's independence, the Auditor is designated by unanimous decision of the Nunavik Assembly and his critical stands related to government executive styles and administrative practices must not be a reason to terminate his contract. The Auditor may be heard by the Nunavik Assembly at his request or at the request of the Assembly.

The Auditor could be chosen on a contractual basis in the private sector. However, the solution applied by the Government of Nunavut may inspire the Nunavik Government. The Government of Nunavut has designated the Auditor General of

Canada to perform these duties. In the present context, the Auditor General of Québec could lend his services to the Nunavik Government, if the latter designated him to hold this office and if the National Assembly allowed him to do so.

Transmission of accounts and reports

The Nunavik Government will share important powers and resources with the governments of Canada and Québec. These governments as well as the taxpayers must have access to the information concerning the operations of the Nunavik Government. Consequently, the Nunavik Assembly should be responsible for transmitting to the House of Commons and the National Assembly annual public accounts, once it has adopted them, as well as the Auditor's report, once he has submitted it to the Nunavik Assembly. The House of Commons and the National Assembly can review the public accounts and the Auditor's report in a parliamentary committee, in the presence of representatives of the Nunavik Assembly. However, this review should in no way modify the powers of the Nunavik Assembly. On the contrary, it must be seen as an opportunity for the elected members and taxpayers of the rest of the country to obtain the information required to understand the political choices and practices on which the financial results are based.

RECOMMENDATION NO 8

PUBLIC FINANCE PROCESSES

FISCAL YEAR

8.1 The fiscal year of the Nunavik Government should extend from April 1st to March 31st.

BUDGET

8.2 The Nunavik Government shall submit an annual revenue and expenditure budget to the Nunavik Assembly for approval.

EXPENDITURE CONTROL

8.3 The Nunavik Government shall designate a Controller of finance. His critical stands related to government executive styles and administrative practices must not be a reason to terminate his contract. The Controller may be heard by the

Nunavik Assembly at his request or at the request of the Assembly. The mandate of the Controller of finance is:

8.3.1 to ensure that all expenditures of the Nunavik Government are directly related to the budget decisions of the Nunavik Assembly;

8.3.2 to make sure that the necessary funds are available to cover the expenditures;

8.3.3 to notify the Nunavik Government if any one of these conditions is not met.

PROCUREMENT POLICY

8.4 The Nunavik Assembly shall adopt a procurement policy providing for the rules applicable to the awarding of contracts by the Nunavik Government including a public call for tender process.

APPROVAL OF LOANS

8.5 The Nunavik Government shall obtain the Assembly's approval for any loan intended to fund capital expenditures, but shall be able to itself authorize loans intended to maintain proper cash flow.

PUBLIC ACCOUNTS

8.6 The Nunavik Government shall submit to the Nunavik Assembly for its approval the annual public accounts, including the detailed statement of revenue and expenditures, the detailed balance sheet and a detailed account of authorized loans.

AUDITING OF PUBLIC ACCOUNTS

8.7 The Nunavik Assembly shall designate by unanimous decision an Auditor. His critical stands related to government executive styles and administrative practices must not be a reason to terminate his contract. The Auditor may be heard by the Nunavik Assembly at his request or at the request of the Assembly. The mandate of the Auditor of Nunavik is:

8.7.1 to examine the public accounts in order to assess the accuracy of the accounts, the relevance and efficiency of the accounting methods, as well as the government's practices with respect to public funds, in particular, but not exclusively, for awarding contracts and granting subsidies and loans;

8.7.2 to make appropriate recommendations in order to improve practices to make them more in line with the rules of good government.

8.7.3 to submit an annual report to the Nunavik Assembly.

TRANSMISSION OF ACCOUNTS AND REPORTS

8.8 The Nunavik Assembly shall be responsible for transmitting to the House of Commons and the National Assembly the annual public accounts, once it has adopted them, as well as the report of the Auditor of Nunavik, once he has submitted it to the Nunavik Assembly. The House of Commons and the National Assembly can review the public accounts and the Auditor's report in a parliamentary committee, in the presence of representatives of the Nunavik Assembly.

PART THREE

FUNDAMENTAL SOCIAL ISSUES

■

But I want to see it solemnly proclaimed somewhere that the government will be operated to the greatest extent possible upon the foundation of Inuit identity, language and culture.

***Aipilie Kenuayuak**, Public Hearings, Puvirnituq, March 15, 2000*

■

In the justice system, there should be an established way to resolve disputes between offenders and their victims. We, Inuit, tend not to simply judge an offender; we tend to forgive someone who has committed an offence, and the new justice system should be revised to reflect this.

***Lucy Carrier**, Public Hearings, Kangirsuk, January 25, 2000*

■

Unemployment seems to be a great mountain that we have to climb. The things which I speak about could all contribute to creating jobs. We have to have money nowadays to live. We all have to pay for everything. It seems that jobs would increase in the event of us attaining our government.

***Dora Koperqualuk**, Public Hearings, Puvirnituq, March 15, 2000*

■

There is the issue of our ownership of the mere surface of the land we own. Beyond one foot down, it is said that everything in the subsurface belongs to the government. Will this provision continue to exist in the order of the proposed government? Can our government attain jurisdiction or ownership over the unfathomable subsurface?

***Jacob Tookallok**, Public Hearings, Kuujjuaraapik, August 28, 2000*

■

Will we be able to control especially the area of wildlife harvesting which we consider an essential matter? For example, all of the 14 communities are required to abide by a quota of how many beluga whales each community is allowed to harvest because of the stated reduction in their populations. Meanwhile, we cannot exist on store-bought food only.

***Lizzie Kadlulak**, Public Hearings, Quaqtaq, January 24, 2000*

■

If a mining development instigated by Qallunaat came upon us (with no way defined to control or participate), this could be very unfortunate. We have to gain some measure of benefit and development from such a thing. Otherwise, it would be nothing but damaging. Our knowledge of the landscape and hunting areas gives us familiarity with what damage or disruption can be tolerated, as well as where to avoid such things for the protection of our livelihood.

***Mala Lanaan**, Public Hearings, Aupaluk, January 26, 2000*

■

FUNDAMENTAL SOCIAL ISSUES

During the Commission's hearings, community members of Nunavik raised numerous issues which recurred constantly from one community to another. These issues were related to language and culture, justice, education, health and social services, housing, economic development, land and natural resources. Many Nunavik organizations addressed these concerns in the briefs they tabled before the Commission.

The following pages address these issues that the Commission considers to be major fields where a Nunavik Government may exercise its powers.

CHAPTER 6 LANGUAGE AND CULTURE

The need to preserve and promote Inuit culture and the Inuttitut language is critical to Nunavimmiut and this has been one of the most frequently expressed concerns at the Commission's public hearings.

Culture is generally perceived by the people as the expression of their entire way of life. However, the viability and energy of a culture can come under constant threat for a variety of factors, as is currently the case in Nunavik. The first signs of damage inflicted on a culture will usually appear in the language itself, and this is nearly always a symptom of a much larger problem.

Nunavimmiut are now reporting that an erosion of the Inuttitut language has started to occur. In a brief presented to the Commission, the Avataq Cultural Institute discusses "loss of parts of vocabulary and structure, mistakes in grammar and spelling, use of anglicisms" and other symptoms that usually signal the beginning of major problems to come.

In its investigation, the Commission has consulted the extensive survey made by the RCAP on this issue, and has come to realize that Aboriginal languages are all in a serious state of decline in Canada. The daily use of Inuttitut as the primary language of the Inuit in the eastern arctic regions may still be an exception when compared to many other Aboriginal languages, but a recent report from KSB warns that even Inuttitut "is fighting for its very survival, and any sound policy must be made in the context of this possibility".

The Commission has witnessed for itself that Inuttitut is, today, still the predominant and strongest language in all Nunavik communities. Nevertheless, its status, according to the KSB study, "is under threat from English, especially among the youngest group of Inuit where the fluency in English (or French) seems to make gains at the expense of ability in Inuttitut".

People are most concerned about the growing discontinuities between the older and younger generations. Such discontinuities in cultural patterns result from frequent contacts with other cultures and lifestyles, as well as from the impact of the mass media on the beliefs, values, and behaviour of the younger generation.

In carrying out its mandate and in developing its recommendations, the future of the Inuit language and culture has become a major consideration for the Commission, and it has come to accept, with conviction, that Inuttitut is indeed fighting for its very survival. It is in this context that the Commission was drawn to some important conclusions. Some of the following recommendations have been presented in the previous chapters but it is useful to come back on those that are important for the language and the culture.

Firstly, the Commission recommends that the various Nunavik institutions be consolidated in a way that will promote the maintenance of Inuit culture. This is to say that the Avataq Cultural Institute must be, along with the other public institutions, part of a new consolidated government. The Avataq brief to the Commission describes how the organization was established in 1980 "in the wake of the JBNQA, as the feeble voice of the Inuit Elders trying to remedy serious omissions in the field of culture and language". The brief also indicates that in its early years, Avataq did what it could to facilitate the preservation and enhancement of the Inuit language and culture, despite having access to very limited resources. It is clear that, in carrying out its responsibilities, a Nunavik Government will need Avataq's expertise as well as the cultural knowledge gained by other institutions, such as KSB.

Secondly, the Commission believes that a consolidated government, while serving the needs of all Nunavik residents, ought to display a strong Inuit dimension, and that in carrying out its many responsibilities, it should place a strong emphasis on the preservation and promotion of Inuit language and culture. In its day-to-day operations, this means that, while Inuttitut, French, and English should be the official languages in Nunavik, and while everyone will have the right to use any of these official languages in the region, Inuttitut should be the predominant language of work in the new government.

Finally, the Commission is of the opinion that the responsibility to promote the Inuit language and culture should come under the exclusive jurisdiction of the Nunavik Assembly. However, in carrying out this responsibility, the Assembly would act with the advice of the Council of Elders, because the Inuit traditionally consider their elders to be the true guardians of their culture.

Communication is another area of critical importance to the future of Nunavik. The Commission believes that this area should fall under the jurisdiction of a Nunavik

Government for the simple reason that it plays such a fundamental role in the conveyance and promotion of culture. The new government should, within the scope of its block funding arrangements, give adequate levels of support for communications, and this should be done mainly through Taqramiut Nipingat Inc. (TNI) and the community radio stations.

The Commission believes that the role of TNI should be reinforced under a Nunavik Government, and that TNI should maintain its own separate existence. This is particularly true for TNI's role in covering and disseminating the debates of the Assembly, a function which will also enrich the democratic life of Nunavik. While a Nunavik Government should have the responsibility and financial capacity to provide the necessary support to TNI and the community radio stations, these organizations should continue to exist as independent entities capable of working without political interference from any government.

RECOMMENDATION NO 9

LANGUAGE AND CULTURE

9.1 The powers for the Inuit language and culture shall come under the exclusive jurisdiction of the Nunavik Assembly which, in carrying out this responsibility, shall act with the advice of the Council of Elders.

9.2 The Nunavik Assembly shall be empowered to fulfil this responsibility in a spirit of fairness and open mindedness, respectful of the other official languages and of the Charter of Rights and Freedoms and of the Québec Charter of Human Rights and Freedoms.

9.3 In the pursuit of this objective, the Nunavik Assembly shall be empowered to enact laws in relation to:

9.3.1 The promotion and protection of traditional spirituality and cultural values, beliefs and practices, and the protection of the Inuit culture and language, including: the preparation of a Charter of the Inuit language and culture; the management of archaeological resources; the repatriation and conservation of artefacts and art collections.

9.3.2 The predominant use of Inuttitut in the operation of the Nunavik Government and other public institutions of Nunavik.

9.3.3 Inuit values and traditions, and the place of Inuttitut with respect to programs, policies and practices in the administration of justice.

9.3.4 Inuit values and traditions, and the place of Inuttitut with respect to programs, policies and practices in the provision of communication services, including: measures to promote an increased proportion of airtime and written media in Inuttitut; measures to secure the functional and editorial independence of TNI and of other media, including the community radio stations.

9.4 The Nunavik Government shall include its responsibilities for communication and the preservation and enhancement of the Inuit language and culture as components of its block funding arrangements.

CHAPTER 7 THE ADMINISTRATION OF JUSTICE

The Inuit feel that the justice system is foreign to them because it does not reflect their values, which emphasize the need for reconciliation and reintegration of offenders within the community. These feelings, often expressed, did not come as a surprise to the Commission which also believes that the court system in Nunavik ought to be perceived as an "inside" institution with rules that are easy to comprehend, and over which the Nunavik Government should have jurisdiction.

Two major reports in recent years addressed the questions related to the justice system: the Inuit Justice Task Force Report (1992) and the report of the Comité de consultation sur l'administration de la justice en milieu autochtone (the Coutu Report, 1995).

One of the main recommendations of both of those reports was about the need to introduce new sentencing procedures. It was stated that these procedures should be community-based and provide for alternative sentencing and administration of sentences. It was felt that these alternative methods would be more effective in reducing criminal behaviour by strengthening the social fabric in each community.

The two reports also recommended the creation of a Court of Nunavik, a recommendation that has been resumed by the Commission in chapter 3. This court could be presided by one or more judges of la Cour du Québec. With its own staff, Crown counsel and legal aid counsel, it could provide a wider range of services to victims and offenders than is presently the case. Also, local police from the Kativik Regional Police Force would not have to escort offenders as frequently to southern courts prior to sentencing.

The Commission's objective is to make proposals that will improve the effectiveness of the justice system in Nunavik, and that will establish a clear relationship between that system and the Nunavik Government. Community-based justice appears to be an essential component of a successful strategy to address Nunavik's social problems. This new approach to justice issues is overdue; it should be the responsibility of the Nunavik Government.

1. JUSTICE COMMITTEES

Justice committees have been shown to be an important element of a community-based justice system in a aboriginal context. They have been effective in Western Canada, Yukon, Northwest Territories and as well as Nunavik in reducing crime, increasing the level of rehabilitation and providing aboriginal communities with a greater sense of responsibility and an opportunity to take part more directly, in their own way, in the resolution of their social problems. This also provides the justice

system with greater flexibility in a aboriginal environment with specific cultural values.

There have been some experiments with alternative justice in Québec, primarily through the pioneer work of Judge Jean-Luc Dutil, of the Cour du Québec. The Cour has criminal jurisdiction in most cases within Nunavik. In the early 1990s, while presiding over the roving court in Nunavik, Judge Dutil opted for community-based justice in a few cases. Some of these cases were widely reported in the legal community across Canada. Since 1995, this judge has been sitting on the roving court in north-eastern Québec. He has helped create the first permanent justice committee in Québec, on the Naskapi reserve of Kawawachikamach, near Schefferville. This justice committee has now worked effectively for a number of years and, according to the local commander of the Sûreté du Québec, there has been a significant reduction of criminal offences each year since the justice committee's inception.

Justice committees are typically composed of 6 to 8 responsible members of the community. They may include elders, social workers, probation officers, mayors or municipal councillors, and ministers of the faith.

Their main function is to provide advice to a sitting judge on possible options for sentencing a convicted offender other than imprisonment. Justice committee members can also supervise an offender who is undergoing alternative sentencing, or is on parole or under probation. They can therefore assist probation officers, who work out of another community, to manage their caseloads more effectively.

Alternative sentencing requires imagination and flexibility, as well as a basic understanding of aboriginal culture. Some sentencing options could involve payment by the offender of some kind of compensation to the victim, doing community work such as hunting or shovelling snow for the elderly, or painting and repairing a home for victims of family violence. In some cases, a young offender could go out on the land with elders for a few months, perhaps to an outfitting camp as is done in Nunavut. Young offenders tend to become calmer in such surroundings and begin to reflect more deeply on how they should lead their lives in the community.

Justice committees can be time-consuming. Judges take more time to arrive at a conclusion of the case before them when they have to confer with a justice committee. As well, at least some members of the committee should be compensated. However, the reduction in various social costs (damage to property, detention and travel costs, etc.) could make this new approach advantageous.

Justice committees can only function adequately if certain conditions are met. Chief among these conditions are a strong desire by the offender to mend his ways and to be rehabilitated, a commitment by members of the community for a long-term involvement in such a project, and the agreement of the victim. Such cases, such as murder, do not lend themselves to such a process. Also, a justice committee may decline to take responsibility for a given individual, if he is too violent or for other reasons. Finally, it must be emphasized that the justice committee always provides advice to a judge; the final decision always rests in the hands of the judge. However, in cases where the judge disagrees with a justice committee's advice, he should give reasons for his decision.

At this time, the Criminal Code of Canada prescribes that a judge must take into consideration alternative means of sentencing in an aboriginal context. This point was underlined by the Supreme Court of Canada in some recent decisions. The Commission believes that a judge should have the obligation to consult a justice committee when he is reasonably convinced that such a committee is operational. Such an amendment to the Criminal Code would be in accordance with sub-section 20.0.20 of the JBNQA, which states that the Criminal Code «shall be modified, if deemed necessary, to suit the particular difficulties of the judicial district of Abitibi and to take into account the circumstances, usages, customs and way of life of the Inuit and to render justice more accessible to them». It should also be noted that sub-section 20.0.24 states that «Sentencing and detention practices should be revised to take into account the culture and way of life of the Inuit people, and this, with their cooperation.»

The Commission also believes that the Nunavik Government should have the responsibility of ensuring that there are operational justice committees in every community. Funding for justice committees should be included as an element of block funding arrangements.

e. DETENTION FACILITIES

Sub-section 20.0.25 of the JBNQA states the following: «As quickly as possible after the execution of the Agreement and after consultation with the Regional Government, the appropriate detention institutions shall be established within the judicial district of Abitibi so that Inuit should not be, unless circumstances so require, detained, imprisoned or confined in any institution below the 49th parallel.» More than 25 years after the signing of the JBNQA, no such detention institution has been opened in Nunavik. A halfway house was established in Kangiqsuk in 2000; and the first reports on its operation are encouraging. Nevertheless, there is a clear need to have a detention centre within the region. The establishment of such a facility would maintain a link between offenders and their families and communities, a key issue as family and friends usually cannot afford to

travel to detention centres in the South. As well, the Inuit inmates currently incarcerated would be able to receive counselling and other services in their own language. The Commission was told that Inuit offenders are among the most poorly served in the prison community.

The construction of detention facilities is a clear legal obligation under the JBNQA and expresses a major social need. This obligation should be implemented without delay, and the responsibility for the operation of these facilities, once built, should be transferred to the Nunavik Government.

III. COMMISSIONERS AT THE QUÉBEC PAROLE BOARD

The Commission québécoise des libérations conditionnelles is responsible for authorizing parole for offenders in provincial jails whose sentences range from 6 months to two years. It probably administers most sentences being served by Inuit at any given time. While the Commission's creation was allowed for by federal legislation, its members are named by the Government of Québec. It currently has 9 full-time and 61 part-time community commissioners. A full-time and a community commissioner sit together on every parole application and they must jointly agree to grant parole in order for a inmate to obtain it. There are currently no community commissioners from Nunavik. Under the present system, Inuit inmates are not adequately informed of their rights nor are they sufficiently prepared for their hearing. As well, the lack of professional services in the North may make some commissioners more reluctant to grant parole.

This constitutes unfair treatment and demands immediate correction. The Nunavik Government should have the power to select community parole commissioners, and to ensure that inmates from Nunavik receive the full range of professional services that is accessible to other inmates in Québec.

RECOMMENDATION NO 19

THE ADMINISTRATION OF JUSTICE

19.1 The Government and Assembly of Nunavik shall have jurisdiction over the administration of justice, which would include the exclusive responsibility for the creation and operation of justice committees in every community. Funding for justice committees should be included in block funding arrangements.

10.2 The Criminal Code of Canada shall be amended to require a sitting judge to consult a justice committee before sentencing a criminal offender, where such a committee is operational.

10.3 Detention facilities shall be built without further delay in Nunavik, in order to fulfil a clear legal obligation set out in the James Bay and Northern Québec Agreement. The responsibility for the operation of such facilities should come under the Nunavik Government.

10.4 The Nunavik Government's responsibility for the administration of justice shall include the power to name commissioners to the Québec Parole Board.

CHAPTER 8 SOCIAL AND ECONOMIC DEVELOPMENT

This chapter deals with certain elements that could be considered as prerequisites for economic and social development. The concept of development is one which can be defined from varied perspectives and, as such, is composed of different components. However, whatever the perspective used, there remains key elements which are associated with some basic needs of the individuals and the kinds of organizations to be set in place to serve them. These core elements, from the context in which the Commission is working from, are: education, health and social services (well-being of individuals, functioning of social units), natural and institutional resources, housing and economic development. These will be dealt with in the following sections.

I. EDUCATION

While carrying out its work, the Commission has been constantly reminded that the future of education is a major concern. In 1994, after twenty years of its existence, KSB conducted a wide consultation in order to build guiding principles and objectives that would better reflect the wishes and expectations of Nunavimmiut while providing the highest quality education possible. The result of the consultation was the principle that a modern system of education must provide the kinds of services that will equip school children with the necessary knowledge and skills to enable them to become self-sufficient and contributing members to the social and economic development of their communities and the Nunavik region. Such an ambitious objective has not yet been fully implemented as there remain many internal and external challenges that have not yet been addressed.

A primary challenge has been the current educational structure that lacks the kinds of responsibilities, power and resources required to develop the kinds of education services envisioned, despite the exceptional involvement of decision makers and all other education partners in the past few years. Another challenge relates to the fact that, in addition to providing Nunavimmiut with the means to become autonomous and responsible citizens, it must allow Inuit youth to achieve proficiency in the Inuttitut language and to provide for the maintenance of Inuit culture including Inuit traditions, values, ways of life and collective aspirations. Such cultural elements are especially relevant in the case of minority groups which continually struggle to keep the essential elements of their traditional culture alive while taking full advantage of modern society. Now more than ever, an education system has to provide to all learners the required means to succeed in a rapidly changing economy which is increasingly influenced by global competition, instant communication and the many components of the high-tech sector.

The creation of a Nunavik Government provides an excellent opportunity to fill the gaps by grouping existing resources and expertise and by providing the education system with all the powers and responsibilities it requires to fulfill its mandate. Such a structural change will facilitate the full involvement of all education partners, including students, school teachers, school administrators, service personnel, parents, learners of other age groups and especially the Local Education Committees of the fourteen Nunavik villages. Up to now, KSB has had the responsibility for pre-school, primary and secondary levels of schooling, and adult education. When the Nunavik Government assumes KSB's responsibilities, it might add, as it sees appropriate, new responsibilities such as post-secondary education.

At various meetings in Nunavik, Avataq and KSB researches came to the conclusion that the Inuttitut language is eroding. To remedy this, people expressed the view that special attention should be paid to members of the younger generations in the school in order to prepare them better to the leading functions of tomorrow. A strong Inuit identity and proficiency in the Inuttitut language were defined as powerful assets. It should be emphasized that a people's language is not only a fundamental tool for communication, it carries powerful symbolic meanings related to one's personal identity and one's belonging to a given culture, both of which are related to culture maintenance and social solidarity with others.

The education system in Nunavik has to also face a range of day-to-day difficulties including the training, recruitment of competent teachers and the need to develop ways to teach and provide services in three different languages. Moreover, it has to motivate students to pursue higher education levels even when, as it is the case today, they have to travel far away from home to achieve this goal. In addition, the education system has to find and devise ways and means to make the teaching profession attractive and to motivate talented Inuit students to become teachers. The Local Education Committees, invested with some of the powers previously held by KSB, would be natural associates to deal effectively with most of these difficult issues.

Given the magnitude of the challenges and the crucial importance of education for the maintenance of Inuit culture and the future of the Nunavik region, it would be pointless to create a new government that did not have the responsibility for such an essential component of people's lives. Hence, the Commission feels that the attributes and functions of KSB must become consolidated within a Nunavik Government. The method of transfer and the structure under which the new government would carry out its responsibilities for education would be decided by the Nunavik Assembly. Nunavik elders should be called upon to play a more active role in the education system. Their competence as specialists in history, art, land issues, traditional knowledge and ethical questions should be recognized and compensated accordingly. Students, on the other hand, should receive course

credits for their registration in courses on these subject matters in the school setting as well as in extracurricular activities.

The Local Education Committees shall be invested with new decision-making functions and shall assume most of the responsibilities that were formerly undertaken by KSB. Through such a decentralization process, communities will acquire greater powers and play a more active part. As examples, they might have the responsibility of defining a new education mission statement, of hiring teachers at all school levels and of hiring Inuit to hold administrative jobs. With the many economic, social and political changes that are about to take place, new job opportunities will become available and students who have the relevant skills will be called upon to hold these new technical, administrative, managerial and professional functions.

In order to achieve the quality of training all Nunavik school students and other learners require, one becomes aware of the many challenges facing teachers in curriculum development as well as in the delivery of courses in the classroom. Such programs of study and courses, while conforming to Québec norms, ought to be widely influenced by the kind of natural and social environments in which Inuit learners live. Along these lines, Avataq's rich cultural documentation could be utilized to better contextualize textbooks in virtually all subject matters that comprise the study program.

RECOMMENDATION NO 11

EDUCATION

11.1 All the powers, competencies, responsibilities and functions of the KSB shall be transferred to the Nunavik Assembly. In addition, it shall have jurisdiction over post-secondary education, continuing education, distance education, and other programs, including those involving such matters as parenting, healing and wellness.

11.2 The Nunavik Assembly, with the advice of the Council of Elders, shall be empowered to enact laws in relation to Inuit values and traditions, and in relation to the use and status of the Inuttitut language in respect to programs, policies, and practices in relation to the provision and administration of education services, including:

11.2.1 the recognition of the competence and skills of elders related to traditional knowledge and the transmission of such knowledge as an active part of the school curriculum;

11.2.2 the acquisition of oral history and its transmission as part of the school curriculum;

11.2.3 the promotion of local community initiatives that support the enhancement of the Inuit culture, language, and values.

11.3 The Nunavik Government shall reinforce the powers, including certain decision-making powers, and responsibilities of the Local Education Committees with the aim of giving them some of the functions that were formerly held by the Kativik School Board. These new functions and responsibilities could include assisting the Nunavik Government in developing curriculum and defining an Education Mission Statement, hiring teachers at all school levels; and hiring and training Inuit to become teachers or hold administrative and managerial positions.

11.4 The Nunavik Government shall examine the conditions under which a College is to be created in Nunavik, and that in so doing, it ensures that the teaching of traditional knowledge be part of the curriculum for any such College.

11.5 Whenever necessary, the Nunavik Government shall take appropriate measures to bring the quality of education in all areas of Nunavik up to the same standard as other regions of Québec.

11.6 The Nunavik Government shall include all its responsibilities for education as a component of its block funding arrangements.

II. HEALTH AND SOCIAL SERVICES

The history of Nunavik offers a classic example of rapid technological, economic, social, political, spiritual and cultural changes which have had a detrimental impact on Inuit traditions, value systems and ways of life. As a result, the Inuit are facing tremendous challenges with respect to their emotional and mental well-being. Physical, emotional and sexual abuse, family violence, suicide in large number,

abuse of alcohol and drugs as well as numerous accidental deaths are just but a few of these ordeals.

A tremendous amount of financial and human resources have been consumed to solve these challenges in the last few decades with limited success. These efforts were not only those of the Health and Social service sector since all regional organizations have put in place special programs aimed at the same objective. Why do Inuit experience such serious problems and why is it so difficult to achieve success at the individual and community levels? Of course, there is no single answer to these complex questions and the many factors involved (physiological, psychological, environmental and socio-cultural) are not experienced and lived in the same way by individuals and groups of individuals. The historical factor of colonization, which is one that is shared by all Aboriginal Peoples, is identified by many as a condition which has played a major role.

The interventions carried by the dominant cultures were often designed with the intent that the kinds of services provided would in the end bring about social progress. On the contrary, the anticipated result seldom materialized. Decision makers had not properly predicted outcomes when self-determining peoples loose control over such a wide spectrum of their lives. The Nunavik Inuit experienced this ambivalent influence firsthand. Such a phenomenon is considered as being, in varying degrees, a process of alienation, an attempt at assimilation, or as a cultural oppression. Today a number of Inuit perceive that they went through this process and feel they that they continue to bear the lasting consequences. Others do not deny that such influences existed in the past but feel that it is time to look ahead and take advantage of the unique opportunity that is at hand with the prospect of establishing an autonomous government in Nunavik to regain much of the power they enjoyed in the past.

Only a few decades ago, the Inuit were living off the land in very much the same way that their ancestors had lived for thousands of years. While life was not easy, the Inuit were a self-sufficient and self-governing society and had a strong sense of identity which was fully rooted in their culture. Inuit values and normative rules of conduct and interaction with others, formed the basis of their customs and their unique spirituality expressed in daily living. Rituals for celebration as well as for grieving were passed from one generation to the next. Social institutions were also clearly defined and their language provided for effective communication and understanding in a tightly-knit society. The continuity in Inuit tradition and culture also meant that children learned what was expected of them and how to behave properly.

Contacts with first the Europeans and increased contacts with Canadians during the last decades weakened the traditional ways of life of the Inuit and impacted upon

Inuit social organizations and institutions. Some interventions, on the part of governments, were beneficial, such as increasing the life expectancy made possible through health services and facilities in permanent settlements. However, some of the developments of the last decades had a negative and traumatic effect upon Inuit. These negative effects included multiple relocations of communities which in turn set in motion the steady erosion of self-reliance, the loss of family members in epidemic proportion due to new diseases, the removal of Inuit children from their families and communities to send them to distant residential schools, and a new design for schooling at home that largely ignored or suppressed Inuit language and culture. Many important economic, health and social gains have been achieved in the last decades through the efforts of Inuit leaders. The Inuit have regained confidence in their capacity to take over the management of their own affairs. This was a strong conviction expressed during the public hearings.

It is beyond the Commission's capacity to research these issues in depth, but during the community hearings it became all too obvious that there is a real link between the developments of the past decades and some of the physical and mental ailments which Inuit now endure. This is particularly true of the younger generation, which has the highest rate of suicide among Québec's youth. Indeed, while reflecting on the situation of the past couple of decades, older Inuit at the public hearings often expressed regret over their decreasing sense of belonging and cohesiveness as a society, as well as the dwindling compassion and the readiness of Inuit to help and support one another.

These problems are largely related to the loss of decision-making power and control over their own affairs. Despite this, many Nunavimmiut feel that these problems can be remedied in varying degrees through the consolidation and enhancement of the current strength and bounds found in Inuit society. These may have been sorely tested in the past, but the Commission is witness to the fact that they have prevailed. Indeed, families and communities have continued to work together to regain control over their lives and to find solutions to overcome the many challenges they face as a society.

The Commission fully supports these efforts and is convinced that a way to solve many of these problems is related to the establishing of a new government. On the one hand, the Commission favours the creation of a consolidated government that is instilled with strong Inuit values and traditions, that can pay attention to the region's unique health and social problems, and above all, that has the potential for good governance. On the other hand, the Commission hopes to avoid the creation of an overly centralized structure which could further alienate people and weaken the control they are establishing over their lives.

In this context, the Commission believes that the general role of the new government in respect to health and social issues should be guided by a number of fundamental principles:

- the support for community initiatives, and the renewal and enhancement of a sense of direct responsibility and control at the individual, family and community levels;
- the transformation of current health and social service programs into a more integrated delivery system;
- the urgent need for a greater inclusion of Inuit traditions and values in the health and social service delivery;
- the improvement of home care services to elders, handicapped individuals, people in loss of autonomy, and the establishment of intermediate health resources, such as residential homes in all Nunavik communities;
- the implementation of a community development program to address the most immediate health threats in Nunavik, including the provision of clean water and basic sanitation facilities;
- the use, in partnership with school personnel and community organizations, of the most relevant methods to provide the best information available on health and social issues. Special attention should be given to mental health habits, good nutrition, problem solving and healing, substance abuse and its effects, parental skills and child-rearing practices and suicide prevention;
- the Nunavik Government, in developing policies to support health and social issues, should acknowledge the common understanding of the determinants of health found in Nunavik traditions and health sciences and endorse the fundamental importance of a number of basic norms: holism, that is the attention to persons in their total environment; equity, that is, equitable access to the means of achieving health and quality of outcomes in health status; control by Inuit people of the life styles choices, institutional services and environmental conditions that support health; and diversity, that is, accommodation of the cultures and histories of Inuit people that are distinctive within Canadian and Québec societies.

RECOMMENDATION NO 12

HEALTH AND SOCIAL SERVICES

12.1 All the powers, competencies, responsibilities and functions of the NRBHSS shall be transferred to the Nunavik Assembly.

12.2 In the pursuit of its responsibilities in the administration of health and social services, the Nunavik Government shall be empowered:

12.2.1 to design programs and develop services that will reflect the objective of collective initiative and self-control and of strong bonds of mutual support in family and community;

12.2.2 to encourage communities to explore their history and the impact it has had on their social development with the view of looking ahead and initiating action that will facilitate the needed changes;

12.2.3 to invest the Local Health and Social Service Committees with greater powers and responsibilities so that they will be more closely involved in defining ways and means to improve the health status of Nunavimmiut and to reduce the incidence of social problems. In that respect, the identification of services designed to help individuals to adapt to rapid technological, economic and socio-environmental changes might prevent negative impact on individuals' life styles and community life;

12.2.4 to take any measure it deems appropriate with respect to the organization of health and social services in Nunavik and to the management of the two hospital corporations;

12.2.5 to take any measure it deems appropriate to ensure health and social services catch up to the levels and quality comparable to other regions of Québec;

12.2.6 to access directly programs and resources provided by the various federal departments regarding the funding of non-insured health benefits to Nunavik Inuit, as well as provisions for the funding of other services made available to Aboriginal Peoples throughout Canada.

12.3 The Nunavik Assembly shall be empowered, with the advice of the Council of Elders, to enact laws in relation to Inuit values and traditions and the status of Inuttitut with respect to policies, programs and practices in the administration of health and social services, including:

12.3.1 the training of Inuit to take on professional, technical and administrative functions in the health and social service fields;

12.3.2 child adoption and family services while respecting the principle of acting in the best interest of the child, in addition to youth welfare and protection, including the preparation of Inuit traditional games as well as measures aimed at improving the situation of the youth.

12.4 The Québec Government shall amend its midwifery law so that the Nunavik Government may establish midwifery services in all Nunavik communities.

12.5 The Nunavik Government shall include all its responsibilities in health and social services as a component of its block funding arrangements.

III. HOUSING

The developments that have occurred over the past decades have had a dramatic impact on Inuit lifestyle and have established a critical need for adequate housing in Nunavik. If this need is neglected, even for a short period, the region's fast population growth will quickly result in housing shortages that will create serious social problems. Conversely, if housing construction and upkeep are maintained at a proper pace, it will not only reduce the family tensions and the myriad of other social problems, it will also boost local employment and generate a stronger economy.

For these reasons, the Commission has come to view housing as a fundamental issue which should fall under the jurisdiction of the Nunavik Government. With regards to the recently created KMHB, the Commission is of the opinion that this body should be kept separate from the Nunavik Government, for much the same reason that it was created separately from KRG. KMHB is a hybrid body whose board is composed from representatives of KRG and of the tenants of the social housing in Nunavik. This entity has the mandate to manage all social housing in Nunavik, including the collection of rents.

RECOMMENDATION NO 13

HOUSING

13.1 The jurisdiction over social and private housing shall come under the Nunavik Assembly.

13.2 In the pursuit of its responsibilities over housing, the Nunavik Government shall be empowered:

13.2.1 to take any measure it deems appropriate with respect to the management of housing services in general in Nunavik;

13.2.2 to take any measure it deems appropriate to ensure that housing catches to existing needs in Nunavik;

13.2.3 to take any measure it deems appropriate to ensure that the construction and upkeep of housing is carried out in a manner that generates maximum economic growth in the region;

13.2.4 to take any measure it deems appropriate to train the Inuit in housing construction and upkeep.

13.3 The Nunavik Government shall include all its responsibilities in housing as components of its block funding arrangements.

IV. ECONOMIC DEVELOPMENT

The implementation of the JBNQA has brought, over the years, an economic development in Nunavik. A part of the economy is based on natural resource exploitation (mining, outfitting, caribou commercialization, hunting, etc.), another part – the largest one – is based on public administration while there is a small sector of private businesses involved in the sale of goods and services.

The Nunavik economy has its own characteristics. It is dominated by the public sector: the numerous public organizations provide the region with more than half of its revenue generated by the whole economy. It is also an economy with many

leaks. A part of the wealth created in Nunavik is exported. One third of the benefits and one fifth of the wages are transferred to outside of the region. As well, an important proportion of the consumer expenditures are made outside of the region by direct imports, such as grocery and other goods and services. Out of $104 million in personal expenses in 1998, it is estimated that $37 million, or 35 percent, are redirected toward consumption outside the region. This phenomenon can be attributed to various factors, such as the difficulty of local enterprises to respond the demand (in terms of quality, variety or freshness), and the benefits allowed by both private and public organizations to employees that encourage such practices.

The Nunavik economy and society are also very different from the other areas of the Administrative Region No 10 which also includes the Cree and the Jamesians. Arctic realities prevail in most part of the Nunavik territory such as harsh climate, tundra, no terrestrial link, Inuit culture, language and values. In order to address these issues, a Nunavik Government should have the capacity to intervene strongly in economic development.

Any public government can play a role in the economy of a region and the Nunavik Assembly will have the authority to legislate on this matter. While not being responsible for all growth or decrease in economic activity, a government can exert influence in key areas when, for instance, it implements policies with respect to support to businesses, to taxation as an incentive to economic development and to the creation of financing institutions. Economic development is therefore part of the government functions.

Many organizations are involved in economic development, both in private sector (Makivik Corporation and its subsidiary companies, the CO-OP movement, many small and mid-size businesses, etc.) and in the public sector. In the latter, one organization is of particular note: the Katutjiniq Regional Development Council (KRDC). KRDC was created under the JBNQA and, later on, became part of the Québec network of Regional Development Councils. KRDC is a hybrid entity, composed at the same time with representatives from public organizations and from the private sector. KRDC is a forum where representation from all the Nunavik organizations and businesses meet to improve the economic development of the region. At present, KRDC is part of a larger structure, called the Northern Québec Regional Development Council (NQRDC) and which operates over the Administrative Region No 10. NQRDC also regroups the Cree and the Jamesian entities involved in economic development.

The Jamesians, in particular, are represented by the James Bay Regional Development Council (JBRDC) which is composed of the municipalities of the James Bay area. Appearing before the Commission, the JBRDC stressed the

importance of its relationship with Nunavik organizations, namely KRDC, KRG and KSB. The Jamesians work in close cooperation with Nunavik representatives on various committees and issues: Hydro-Québec Economic Spin-off Committee, Economic Diversification Fund, Solidarity Fund (FTQ) for Administrative Region No 10, Transport Plan Consultative Committee for Region no 10, Education Table grouping together the School Boards of the region (including KSB), tourism development issues involving various tourism associations. The Jamesians understand the aspiration of Nunavik for self-government and that the creation of a Nunavik Government could logically lead to the establisment of a specific administrative region for Nunavik. However, they expressed the strong will to maintain, in a way or another, the good relationship they have developed with Nunavik in order to consolidate the cooperative gains in the past.

RECOMMENDATION NO 14

ECONOMIC DEVELOPMENT

14.1 The Nunavik Assembly shall have powers to legislate in the field of economic development.

14.2 The KRDC shall be under the jurisdiction of the Nunavik Assembly.

14.3 The KRDC shall be financed by the Nunavik Government which shall have, within the level of block funding, the necessary funding to assume this financing.

14.4 The Nunavik Government shall take the proper measures to maintain the social and economic relationship developed over the years with organizations and institutions outside of Nunavik.

14.5 The Québec Government shall create a specific administrative region for Nunavik.

CHAPTER 9 SHARING THE TERRITORY AND ITS RESOURCES

The territory and its resources form one of the most important spheres where a public government can play a role in Nunavik. From the outset, it is difficult to imagine that a Nunavik Government would not have a substantial level of power with respect to the control and development of the territory and its resources.

The territory and its resources represent a major stake for a number of reasons. This territory and its natural resources are at the heart of the life of Nunavik's population. All northern communities share a deep attachment to the natural environment. This attachment derives naturally from the fact that the Inuit have inhabited Nunavik from time immemorial and have always counted on its resources – above all, wildlife – for their survival. Today, the territory and its resources also represent an economic development potential through projects such as the establishment of a mine or the creation of a protected area such as a park. However, economic development may in turn pose various threats to the arctic environment.

During public hearings, the people of Nunavik repeatedly reminded the Commission of their deep ties to the territory. Nunavik residents also expressed the wish to see a Nunavik Government having a significant level of power with respect to the control and development of the territory and its resources. In the pages that follow, the Commission has endeavoured to address these aspirations by proposing an approach based upon a sharing of responsibilities with respect to the territory and its resources.

I. GENERAL RESPONSIBILITY FOR THE TERRITORY AND ITS NATURAL RESOURCES

Nunavik is an immense territory and this immensity– more than 500,000 km², or close to one-third of all Québec – represents an important aspect of the aforementioned stake.

The resources of the territory represent another aspect of the matter. In addition, the wildlife resources to which this report refers in greater detail in the following section, Nunavik is home to mineral resources, the potential of which is generally considered promising. The importance of the nickel deposit which resulted in the opening of the Raglan mine is already known. Current knowledge also indicates that several geological formations could contain major mining resources such as copper, iron, gold, zinc, lead, lithium, etc. In another field, Nunavik is home to a vast group of energy sources associated with rivers, tides, winds and biomass. The main rivers of the territory (Great Whale, Nastapoka, Leaf, Koksoak, George, and others) and their watersheds represent a potential approaching 8,000 MW which is now around 25 percent of the total installed capacity of Québec. Nunavik also has a major freshwater supply with its thousands of lakes and rivers. All of these resources can

give rise to projects that have an impact upon communities, that are a crucial lever for economic development, and that may be important sources of funding for a Nunavik Government.

At the present time, all questions concerning the territory and the natural resources of Nunavik fall primarily under the jurisdiction of the Government of Québec (Department of Natural Resources, Hydro-Québec, Québec Wildlife and Parks Corporation) and, in the case of environmental questions, Canadian and Québec jurisdictions. Generally, the organizations and population of Nunavik have little impact upon the preparation of policies and programs pertaining to the control and development of the territory and public resources. Given the impact of the territory and natural resources on the population of the territory and given the purpose of a public government, the Commission believes that one should envisage a Nunavik Government that would share responsibility for controlling and developing the territory and its resources with the governments of Québec and Canada. During its consultations, the Commission noted that over the years there has been a trend to entrust Nunavik organizations with ever-greater responsibilities in the setting up and management of government programs within the framework of the implementation of the JBNQA. The Commission believes that the idea of creating a public government in Nunavik should be taken one step further by sharing jurisdiction over the territory and its resources.

RECOMMENDATION NO 15

GENERAL RESPONSIBILITY FOR THE TERRITORY AND ITS NATURAL RESOURCES

15.1 There shall be no development of natural resources in Nunavik without the consent of the Nunavik Assembly. This includes mineral exploration and mining, hydroelectric projects (including feasibility studies and related field work), protected areas, wildlife resources and the environment.

15.2 Consequently, the Québec Government and the Nunavik Government should together set up a process whereby all licences and permits concerning the territory and its resources are issued jointly by the two governments.

II. WILDLIFE RESOURCE MANAGEMENT

Among the natural resources of Nunavik, wildlife resources hold a special place for the Inuit who have relied on the territory's wildlife to survive in the harsh arctic environment.

Primarily divided into two herds (George and Leaf rivers), Nunavik caribou herds are among the largest in the world and represent the most important wildlife resource of the territory. However, according to recent studies, the species seems to have entered a major cycle of decline due to over-population.

The polar bear, arctic fox, beluga, walrus, seal, ptarmigan, and fish are among the region's other main wildlife resources.

Most of these wildlife resources are found in the diet of local populations. They also represent a contribution to economic development through the marketing of certain species as well as sport hunting and fishing.

To sustain these activities, there is a necessity to ensure that wildlife resources are constantly renewed. To this end, it is important to maintain the harvest of various species at levels that ensure the perennial nature of the species while meeting the food needs of the various Nunavik communities. This requires a constant, coordinated and efficient research effort. This situation would lead to three important issues.

At the present time, the manner in which decisions concerning the management of these wildlife resources – their conservation as well as their harvesting – are taken is not coherent. Several departments and agencies of the Canadian and Québec governments play a role in this area, and the steps taken often lack coordination.

Moreover, local communities must be associated in the wildlife management and decision-making processes. Such a process must combine scientific expertise and the experience of hunters, fishers and trappers of Nunavik to determine insofar as possible the great complexity of the factors that may influence the growth or decline of species.

But, at the same time, it is difficult to consider wildlife resource management as being a field of activity reserved for a single level of government. The factors to consider include the fact that several species migrate outside of Québec; the governments of Québec and Canada, signatories to various international agreements, have developed their own expertise in relation to the wildlife species

while the Inuit have extensive experience in the hunting, fishing and trapping of the wildlife resources of Nunavik.

During its consultations, the Commission considered the experience that Nunavut has acquired to date in the management of wildlife resources. The Commission believes that the setting up of the Nunavut Wildlife Management Board is an experience that could be repeated in Nunavik, with the necessary adaptations. The Nunavut model brings together decision-makers. The governments then implement these decisions. This makes it possible to coordinate efforts and to extend decisions to the regional level.

In this spirit, the Commission supports the creation of a Nunavik Wildlife Commission, which would be the main instrument for the management of the region's wildlife resources and the main regulator of access to these resources. Of course, such a development must respect the rights of the Cree, the Naskapi and the Inuit concerning wildlife resources, rights that are set out in the JBNQA and the NEQA. For example, the "Hunting, Fishing and Trapping Coordinating Committee" created under section 24 of the JBNQA would continue to play its current role.

RECOMMENDATION NO 16

WILDLIFE MANAGEMENT

NUNAVIK WILDLIFE COMMISSION

16.1 The Nunavik Wildlife Commission shall be created. It shall be tripartite and made of an equal number of representatives of the governments of Nunavik, Québec and Canada.

MANDATE OF THE COMMISSION

16.2 The Commission shall be the main instrument of wildlife management in Nunavik and the main regulator of access to wildlife, and have the primary responsibility in this domain. More specifically, its mandate shall be the following:

16.2.1 Decision-making mandate:

In close collaboration with local communities, to administer and oversee an effective system of wildlife management that complements Inuit harvesting rights and priorities and recognizes

Inuit systems of wildlife management which contribute to the conservation of wildlife and protection of wildlife habitat; that provides optimum protection to the renewable resource economy; and that is governed by and subject to the principles of conservation;

16.2.2 Advisory mandate:

To prepare, upon request or at its own initiative, notices, opinions, information, report and recommendations addressed to the governments of Nunavik, Québec and Canada on any matter pertaining to wildlife management, to regulation of access to wildlife; periodically, upon its own initiative or at the request of a government represented in it, to prepare a status report on the wildlife of Nunavik and related matters, and to make appropriate recommendations pertaining to these matters;

OBLIGATION TO APPLY THE COMMISSION'S DECISIONS

16.3 The Nunavik Government shall have the obligation to apply the decisions taken by the Commission, in compliance with its decision-making mandate, unless it can show that these decisions run counter the principles of conservation, the protection of endangered species, national and international commitments relevant to these matters.

OPERATING BUDGET OF THE COMMISSION

16.4 The Commission shall receive from the Nunavik Government an annual operating budget intended to cover the activities related to the carrying out of its decision-making mandate (16.2.1). In this respect, the Nunavik Government shall be able to count on block funding to enable it to meet this financial need.

CAPITAL ENDOWMENT OF THE COMMISSION

16.5 At the time of its creation, the Commission shall be endowed with a capital budget provided by the governments of Québec and Canada, the interest of which shall be intended to fund the research activities necessary for the carrying out of its advisory mandate (16.2.2).

III. ENVIRONMENT

During the public hearings, the population of Nunavik voiced its concerns about the state of the environment on numerous occasions.

Indeed, the arctic environment of Nunavik faces a number of threats. Economic development and mining development in particular – operation of mines and mining exploration – leaves behind some 600 sites that are liable to affect wildlife and, consequently, the diet of the people of Nunavik. Outfitting activities can also affect the environment through the production of uncontrolled waste. In the communities, problems related to drinking water supply, sewage management and solid waste disposal are environmental aspects that are very much cause for concern. Transborder pollution also represents a major threat to the environment, in particular through the food chain.

Governments have made several efforts to address these environmental protection issues. However, a review of the current situation indicates that major coordination problems exist. A quick glance at current environmental structures and processes reveals a great deal of confusion. There exist no less than three environmental procedures (two different federal procedures and one at the provincial level) and two agencies responsible for implementing these procedures: Kativik Environmental Quality Commission (KEQC), Environmental and social impact review Committee (COFEX-North). This situation gives rise to numerous coordination problems between the governments, agencies and procedures. At times, projects start up before the analysis of their environmental impact review can be completed. Moreover, in spite of section 23.5 of JBNQA, there is a lack of financial resources for agencies like Kativik Environmental Advisory Committee (KEAC) whose role is consequently limited.

The Commission believes that it is important to strengthen the action and mandates of these structures active in the environment field. At the same time, the population and the organizations of Nunavik are calling for a simplification of the current situation as it relates to environmental protection. There is a need to group structures, coordinate decision-making, consolidate the action of governments: very often, environmental protection raises questions that extend beyond borders. It is in this spirit that the Commission is in favour of a simplification through a unification of the various processes and organizations with respect to the environmental regime, as suggested by KEAC among others.

RECOMMENDATION NO 17

ENVIRONMENT

UNIFIED REGIME

17.1 There shall be a unified regime for assessing the environmental and social impacts of development projects, to replace the processes currently in effect, and which shall be established at the time of the creation of the Nunavik Environmental Commission.

NUNAVIK ENVIRONMENTAL COMMISSION

17.2 The Nunavik Environmental Commission shall be created. The Commission shall be made up of representatives of the governments of Nunavik, Québec and Canada, and at least 50 percent of its members shall represent the Nunavik Government.

MANDATE OF THE COMMISSION

17.3 The Commission shall replace KEQC, COFEX-North and KEAC. Its mandate shall be the following:

17.3.1 Decision-making mandate:

To administer and oversee the unified process for assessing the impact on the environment and the social milieu and report to the Nunavik Government decisions on whether to authorize or not the carrying out of a development, and on the conditions that must accompany such an authorization;

17.3.2 Advisory mandate:

To prepare, upon request or at its own initiative, notices, opinions, information and recommendations addressed to the governments of Nunavik, Québec and Canada on any matter pertaining to the protection of the environment and of the social milieu, including the unified regime for the assessment of environmental and social impact.

Periodically, the Commission shall, upon its own initiative or at the request of a government represented in it, prepare a status report on the environment of Nunavik, identify surfaces that have been potentially damaged, deteriorated or destroyed by human activity, and make appropriate recommendations to rehabilitate these surfaces and to preserve their ecological integrity.

The Nunavik Government shall have the obligation to apply the decisions on the relevance of authorizing or not allowing the carrying out of a development, and on the conditions that must accompany such an authorization, unless it can show that these decisions run counter to the protection of the environment and the social milieu.

OPERATING BUDGET OF THE COMMISSION

17.4 The Commission shall receive from the Nunavik Government an annual operating budget intended to cover the activities related to the carrying out of its decision-making mandate (17.3.1). In this respect, the Nunavik Government shall be able to count on block funding to enable it to meet this financial need.

CAPITAL ENDOWMENT OF THE COMMISSION

17.5 At the time of its creation, the Commission shall be endowed with a capital budget provided by the governments of Québec and Canada, the interest of which shall be intended to fund the research activities necessary for the carrying out of its advisory mandate (17.3.2).

TRANSITIONAL MEASURES

17.6 The Commission shall replace KEQC, COFEX-North and KEAC, whose mandates it shall take over until a unified regime for assessing the environmental and social impacts of the development projects is put in place.

PART FOUR

RELATIONSHIPS WITH OTHER GOVERNMENTS AND ABORIGINAL PEOPLES

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My biggest expectation is that I want to see a government that has the ability and capacity to enter into agreements with other levels of government, without attempting to catalogue the contents of such. We do hold a real desire to see a government formed. But there are relatively few issues which have caused us to stop and say: "I wish we had a government!" We do want a complete government, one with all the trappings of a government by which we can share in having power.

Silas Berthe, Public Hearings, Tasiujaq, January 22, 2000

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I would favour not having a boundary in consideration of our ancestral heritage. They never argued about such things, or claimed "This is mine!" to each other. We should devote something to this matter while Elders who have given importance to good cooperation are still alive. If we could stir this kind of solidarity among the Inuit of Nunavik, Nunavut, Greenland, Alaska, Russia and the circumpolar world, we can have a very strong choice.

Pallaya Ezekial, Public Hearings, Quaqtaq, January 24, 2000

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CHAPTER 10 THE RELATIONSHIP WITH OTHER GOVERNMENTS AND ABORIGINAL PEOPLES

This chapter examines possible future relationships to be established by the Nunavik Government with the governments of Canada and Québec, with other governments and institutions, with the Cree and Naskapi First Nations of Québec, and with other Aboriginal neighbours and other First Nations.

I. THE RELATIONSHIP WITH CANADA AND QUÉBEC

Since Nunavik will continue to be a part of Canada and Québec after the creation of its Government and Assembly, the Canadian Constitution, as well as federal and provincial laws of general application, will continue to apply to Nunavik. The Constitution has established a division of legislative powers between the Parliament of Canada and the National Assembly of Québec. Both of these bodies will continue to legislate with respect to Nunavik.

The powers that will be recognized to belong to the Government and Assembly of Nunavik, whether they are exclusive or not, will be substantial. While this Commission cannot make definitive legal pronouncements in this report, it is likely that these powers will receive constitutional protection.

As a result, it is to be expected that the relationship between the political authorities of Nunavik and the governments of Canada and Québec will be modified. The enhanced status of the Nunavik Government may put it in a unique situation in Québec, and perhaps in Canada, since there appears to be no precedent for a public form of aboriginal government of this nature. The full implications of this new development, and the evolution of the relationship between the three governments, are difficult to predict because in this case these are uncharted waters.

It is clear that there will be a need for new channels between the appropriate governmental authorities. In that spirit, a Nunavik Conference gathering members of the governments of Nunavik, Québec and Canada should be instituted to discuss matters of mutual concern. Furthermore, the National Assembly of Québec should invite on an annual basis members of the Nunavik Assembly to maintain a continuing dialogue from Assembly to Assembly.

II. THE RELATIONSHIP WITH OTHER GOVERNMENTS AND INSTITUTIONS OF THE ARCTIC

It is likely that once it is established, the Nunavik Government will seek to have ties with other governments of the Arctic, particularly those that are elected by Inuit majorities. The Government of Nunavut, recently created, and the Government of

Greenland fall into this category. They are both public governments with a high degree of autonomy and both are immediate neighbours of Nunavik; all three governments would therefore face many common problems, and it is only natural that they would seek to share their experience. The governments of Canada and Québec shall recognize the establishment of closer ties of a cultural, social and economic nature between Nunavik, Nunavut, Labrador and Greenland.

In the field of intergovernmental and international relations, as in others, the federal and provincial governments have legitimate interests they will seek to pursue, particularly in the case of relations with Greenland, which is a part of another sovereign state, namely Denmark. With due respect paid to these interests, Nunavik should be authorized to establish its own relations.

Similarly, the Nunavik Government should have the ability to seek membership, or at least observer status, in a range of arctic institutions. Many have appeared in recent years. Some are international intergovernmental bodies, such as the Arctic Council; the Nunavik Government should have the possibility to join these organizations or to establish other links with them, subject to their rules governing membership and to the relevant federal and provincial legislation. Such legislation should be in keeping with the Political Accord, which states that "arrangements for the establishment of a Nunavik Government shall respect the arctic character of Nunavik and close relationship between the Inuit of Nunavik and Nunavut."

III. THE RELATIONSHIP WITH THE CREE, THE INNU OF NORTHERN QUÉBEC AND THE NASKAPI

Among the overriding principles set out in section 5 of the Political Accord, subsections 5.1 d) and 5.1 g) concern the First Nations of Northern Québec that have specific rights in Nunavik as established in the JBNQA or the NEQA.

The Commission is convinced that the rights north of the 55th parallel of the Cree of Whapmagoostui and the Naskapi of Kawawachikamach, that have been recognized by the JBNQA or the NEQA, are fully respected in the present report.

However, the representatives of these First Nations, as well as the Innu of Matimekush, expressed the view before the Commission that they have strong concerns and substantial rights north of the 55th parallel in addition to those that have been recognized so far. This matter is clearly outside the mandate of the Commission. Therefore, the Commission believes it should not make specific recommendations on the merits of this issue. Nevertheless, the Commission advises the parties to the Political Accord that the concerns of the Cree, the Naskapi and the Innu are deeply held and should not be ignored. In the interests of good relations between Nunavik and its aboriginal neighbours of northern Québec, the

Commission recommends the creation of a Forum of Aboriginal Peoples of Northern Québec. This body should be composed of representatives of the Inuit, the Cree, the Naskapi and the Innu. Their mandate should be to discuss on an ongoing basis, matters of mutual concern in and outside Nunavik and to provide recommendations to their respective institutions and organizations. This Forum should be funded in equal measure by the governments of Canada and Québec; each of these governments should send an observer to the meetings of the Forum.

IV. THE RELATIONSHIP WITH OTHER ABORIGINAL NEIGHBOURS

Since the Nunavik Government would be a public body serving all residents of Nunavik regardless of ethnic origin, relations between the representatives of the Nunavimmiut and other First Nations, or associations representing numerous First Nations, would normally be left to an organization representing the ethnic or aboriginal interests of the Inuit which, in most cases, will be Makivik Corporation. The Nunavik Government may choose however to have direct links with other First Nations within Québec, within Canada or outside Canada if it is authorized to do so by the Assembly.

V. THE REPRESENTATION OF NUNAVIMMIUT AT THE QUÉBEC NATIONAL ASSEMBLY AND AT THE HOUSE OF COMMONS

This issue may not be within the Commission's mandate. However, in order to facilitate a much-needed representation, the Commission recommends that Nunavimmiut be enabled to elect their own member at the House of Commons and at the Québec National Assembly. This representation would certainly allow the Nunavimmiut to better participate in the political life of both Québec and Canada.

In this scenario, it should be understood though that these new members of the federal and provincial parliaments could not be members of the Government or the Assembly of Nunavik.

RECOMMENDATION NO 18

THE RELATIONSHIPS WITH OTHER GOVERNMENTS AND ABORIGINAL PEOPLES

18.1 A Nunavik Conference of members of the governments of Nunavik, Québec and Canada should be instituted to discuss matters of mutual concern.

18.2 Members of the Nunavik Assembly shall be invited annually by the Québec National Assembly to maintain a continuing dialogue from Assembly to Assembly.

18.3 With due respect to the interests of Canada and Québec, the Nunavik Government shall be authorized to establish its own relations with other governments and institutions, including arctic ones, in and out of Canada.

18.4 A Forum of Aboriginal Peoples of Northern Québec shall be created. This shall be a permanent body composed of the Inuit, the Cree, the Naskapi and the Innu. Its mandate shall be to discuss on an ongoing basis, matters of mutual concern in and outside of Nunavik and to provide recommendations to their respective institutions and organizations. This Forum shall be funded in equal measure by the governments of Canada and Québec. Each of these governments shall send an observer to the meetings of the Forum.

18.5 There shall be a Member of the Parliament of Canada and a Member of the National Assembly of Québec elected to represent Nunavik exclusively. Such representatives could not be members of the Government or the Assembly of Nunavik.

PART FIVE

STEPS TOWARDS THE NUNAVIK GOVERNMENT

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So, once a threshold is crossed which asserts to us that we will be able to have a government of our own which can transform our aspirations into agreed upon enablements, that will be the day when the gates open for us! The gates are not open as yet, and we can only express our thoughts on it. Only when that gate is opened and such a means is made ready for us, we will have to change and adjust many of our ways.

Matiusie Amarualik,
Public Hearings, Puvirnituq, March 15, 2000,

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STEPS TOWARDS THE NUNAVIK GOVERNMENT

CHAPTER 11 THE PROCESS AND TIMETABLE

What happens after this report is made public? How should the parties proceed to make the Nunavik Government a reality? The process to be followed is of critical importance if this complex, and in some ways unprecedented, operation is to be successful.

There are some elements of this process in the Political Accord. According to section 7.2, after a period of three months following the tabling of the Commission's recommendations, «the parties undertake to start negotiations in order to set up a process aiming at the establishment of a form of government in Nunavik, which could be inspired, totally or partly, from the recommendations of the Commission». Sub-section 4.1 j) states that a process for the implementation of a Nunavik government «shall include a vote among the residents of Nunavik prior to its implementation».

However, sub-sections 4.1 i) and j) of the Political Accord require the Commission to provide proposals on transitional measures, an overall timetable and a process «for the implementation of the Nunavik Government». That is the purpose of the present chapter.

I. PRELIMINARY COMMENTS

It has been suggested to the Commission during its consultations that the transfer of responsibilities to the new institutions of Nunavik should not take place all at once. Different reasons were put forward to support this view: one reason given was that the people of Nunavik are not quite ready; another was, unlike Nunavut before it was created, Nunavik already has in place a set of institutions flowing from the JBNQA might produce a more orderly transition.

It has also been said to the Commission, by people familiar with the process leading up to the creation of the Government of Nunavut, that the planning of that process was crucial. They underlined the importance of having a clear target date for the taking of office of the new government, as well as the usefulness of having at least one transitional body responsible for the measures to be taken in Nunavik to prepare for the target date. In addition, the creation of the Nunavik Government will present an internal administrative challenge to the other levels of government, who will have to review many programs, procedures and pieces of legislation, particularly the Government of Québec.

The Commission has also noted that in the case of the creation of the Home Rule Government in Greenland in 1979, the transfer of responsibilities from the Danish authorities to the new government took place over a period of twenty years, which has now just ended.

II. TWO TRANSITION PERIODS

The comments made above illustrate that it should be recognised that there will be, in fact, two transition periods: the first one (which could be called Phase1) would stretch from the publication of the current report to the target date, that is the date when the Government and Assembly of Nunavik would begin their first term; the second would begin on the target date and last for the time needed to complete a merger of present institutions and a transfer of responsibilities (Phase 2).

Phase 1: Creation of the institutions

In the first transition period, a number of important events would take place. These include: negotiations between the Nunavik party, the Government of Québec and the Government of Canada; the announcement of a final proposal to be submitted to the people of Nunavik; a vote of the people of Nunavik on the final proposal; if the final proposal is approved, the revision and modification of the JBNQA, and of implementing federal and provincial legislation; and the creation of the Assembly, the Government, the Council of Elders, the Nunavik Court, the Nunavik Wildlife Commission and the Nunavik Environmental Commission.

In addition, it is recommended by the Commission that a resolution of the National Assembly of Québec, formally committing Québec to the principle of autonomous government for Nunavik, should be adopted soon after the approval of the final proposal by the people of Nunavik. A similar resolution should be adopted by the House of Commons. Such resolutions would send a strong symbolic message to the effect that these commitments extend beyond the governments of the day to all major political parties, and to the entire Canadian and Québec societies.

Finally, it is submitted that an Office of Interim Commissioner of Nunavik should be created as soon as the final proposal has been approved. The Interim Commissioner would be an Inuk from Nunavik already holding, or having held, important public responsibilities. The Interim Commissioner would be responsible for the administrative, material and financial preparations for the creation of the Nunavik Government and Assembly, including training or hiring people, constructing, leasing or buying public buildings and equipment. The Interim Commissioner would have the power to sign agreements with the governments of Québec and Canada, including funding arrangements; these agreements could bind the Government and Assembly of Nunavik for up to two years after the target date. The

Interim Commissioner would end his mandate by reporting to the Assembly of Nunavik within 30 days after the latter takes office.

The Interim Commissioner would chair an advisory committee of all major Nunavik organizations. These must include representatives of all organizations who will join the Nunavik Government, as well as Makivik Corporation. The Interim Commissioner should be able to invite other organizations to send representatives as well.

Furthermore, the Interim Commissioner would sit with a federal and a Québec representative on a joint transition committee. This body would be responsible for joint planning of the entire transition process. In view of the need for sound organization and the effectiveness of the measures to be adopted, it will be important that the persons selected by the governments of Canada and Québec to sit on this committee have the authority to speak for all the government departments involved in this project, and to report directly to the ministers concerned.

In addition, the Interim Commissioner would be responsible for the organization of a vote on the choice of a capital of Nunavik. Afterwards, he would see to the organization of the first general elections to the Assembly and the Government, with the assistance of the Director General of Elections of Québec, if the Québec National Assembly authorizes him to do so.

Given all the work that must be done during Phase 1, this transition period should last no less than five years which might seem overly optimistic to some. Still, it is achievable if there is sufficient political will, and strong public support for the final proposal. Therefore, the Commission has set the end of Phase 1 in 2006.

Phase 2: Consolidation of the institutions

Following Phase 1 which would set up the proper process and allow enough time to clear the ground, Phase 2 would last from 2006 to 2011. It would see a gradual consolidation of the Nunavik Assembly and Government, through the merger of current institutions, the negotiation of new collective agreements, the adjustment of block funding arrangements and the increase in powers and responsibilities.

RECOMMENDATION NO 19

THE PROCESS AND TIMETABLE

19.1 PHASE 1: CREATION OF THE INSTITUTIONS

April 2001:	Report of the Nunavik Commission is made public.
September 2001:	Beginning of negotiations between the three parties to the Political Accord.
February 2003:	Agreement reached by the three parties.
Fall 2003:	Referendum in Nunavik to accept or reject the agreement.

If the agreement is accepted:

Fall 2003:	Resolutions adopted by the Québec National Assembly and the House of Commons as formal commitments to the principle of autonomous Government for Nunavik.
	Creation of the Office of Interim Commissioner.
Fall 2003 to Summer 2005:	Interim Commissioner, advisory committee and joint transition committee plan the entire transition process, including the vote for the choice of a capital.
	Revision of the JBNQA; adoption of provincial and federal legislation, including the Nunavik Act.
November 2005:	Election of Nunavik Assembly and Government.
December 2005:	Assembly and Government take office.
	Interim Commissioner concludes its mandate.

Beginning of 2006:	Creation of the Nunavik Court; the Nunavik Wildlife Commission and the Nunavik Environmental Commission.
	The boards of KRG, KSB, NRBHSS and Avataq disappear and their responsibilities are transferred to the Nunavik Assembly.
	KRDC, KMHB, Inulitsivik and Tulattavik Hospital Corporations, and TNI, while keeping their corporate identity, fall under the jurisdiction of the Nunavik Government.

19.2 **PHASE 2: CONSOLIDATION OF THE INSTITUTIONS**

From 2006 to 2011:	Gradual implementation of exclusive jurisdiction over language and culture.
	Gradual implementation of shared jurisdictions such as municipal affairs, transport, relation with other governments, parks, justice administration, public works, labour relations, etc.
	Gradual implementation of the block funding agreements, and jurisdiction over fiscal matters.
2011:	Final compulsory revision of the first block funding agreements.
	End of transfer of powers.

CHAPTER 12 AMENDMENTS TO EXISTING LAWS

This report is comprised of a number of recommendations that must now be submitted to the three parties which originally gave its mandate to the Commission. What happens next depends on the will of the three parties. They will have to initiate a negotiation process based upon the recommendations of this report and to conclude an agreement which, in turn, will have to be submitted to the people of Nunavik in a referendum. Nunavimmiut will then have the last word and, if they approve the agreement, the JBNQA will have to be revised accordingly, in order to ensure the legal stability and the effectiveness of the new arrangements.

There are three ways to achieve this: a complementary agreement to the JBNQA, a revision of the body of the JBNQA or a new treaty between the parties to the Political Accord. In addition, a revision of the laws flowing from the JBNQA will be necessary, as well as of some laws of general application.

I. REVISION OF THE JBNQA

Complementary agreement to the JBNQA

There have been a dozen complementary agreements to the JBNQA so far. The parties to these complementary agreements vary according to the section of the Agreement that is amended and the specific provisions governing the amendments to that section. Thus, the Inuit are not a party to the complementary agreements concerning only the Cree, and vice versa.

A complementary agreement could be the tool chosen by the parties to the Political Accord to implement some or all of the recommendations of the present report. No legislation would be required to ratify or approve a complementary agreement. However, the parties may consider that this would not be the appropriate legal method for a revision of the JBNQA on the scale that is contemplated in this report. While the amendments to the JBNQA that were achieved by the means of complementary agreements should not be considered minor, they are generally elaborations of specific provisions of the Agreement and not, as is proposed here, a fundamental rewriting of entire sections of the Agreement.

The general provision governing amendments to the JBNQA is subsection 2.15, which reads as follows:

> «The Agreement may be, from time to time, amended or modified in the manner provided for in the Agreement, or in the absence of such provision, with the consent of all the parties. Whenever for the purposes of, or pursuant to, the Agreement, unless otherwise

> expressly specified, consent is required in order to amend or modify any of the terms and conditions of the Agreement, such consent may be given on behalf of the Native people by the interested Native parties.»

This provision appears to be sufficiently flexible to allow for either a complementary agreement or a direct modification of the main provisions of the JBNQA. Whenever a number of sections of the JBNQA are being modified simultaneously, as would be the case for the first time to this extent if all the recommendations of this report were adopted, a direct modification of the body of the JBNQA might be more appropriate. This would be a recognition of the fact that the present recommendations involve the most sweeping changes to the JBNQA since its adoption. In any case, the procedures for amendment contained within each section that will be amended must be respected.

A major revision of the JBNQA

The recommendations in this report may entail major changes to sections 12 (local government north of the 55th parallel), 13 (regional government north of the 55th parallel), 15 (health and social services for the Inuit), 17 (education for the Inuit), 20 (administration of justice for the Inuit), 21 (police services for the Inuit), 23 (environment and future development north of the 55th parallel), 24 (hunting, fishing and trapping), 25 (compensation and taxation) and 29 (Inuit economic and social development) of the JBNQA.

If the parties to the Political Accord consider that the amendments to the JBNQA that they are willing to contemplate on the basis of this report are outside the scope of complementary agreements, which they might wish to reserve for modifications that are more narrow or technical in nature, a direct renegotiation of substantial parts of the JBNQA may be called for. This would in effect more clearly lead to a new JBNQA for the Inuit, with respect to the many sections that would be amended. New federal and provincial legislation ratifying and putting into effect these amendments would be required. The land regime north of the 55th parallel would remain unchanged.

A new treaty

A third method of implementation of the recommendations in this report would be the adoption of a new treaty between the Government of Canada, the Government of Québec and the Inuit party of Nunavik, represented by Makivik Corporation. This new treaty would replace the sections of the JBNQA that would be amended following this report. The sections of the JBNQA relating to the land regime north of the 55th parallel would remain in effect, as well as those sections relating to the

Cree and the Naskapi. The JBNQA would be amended only to abrogate those sections that would be replaced by the new treaty. Thus, two treaties would govern relations with the Inuit: the JBNQA with respect to the land regime and the new treaty with respect to issues of governance. Such a new treaty would also have to be approved and put into effect by federal and Québec legislation.

Whatever amending formula the parties may choose, it will be necessary to identify all rights enjoyed by Inuit, including those in relation to existing institutions that will be amalgamated under a Nunavik Government, and to ensure that these rights will be fully preserved as constitutionally protected treaty rights. Due to their location outside of Nunavik, it will be particularly important to ensure that there is no loss or erosion of the rights of the Inuit residents of Chisasibi. Likewise, special care will have to be taken to ensure that there is no loss of any rights that the Cree and Naskapi enjoyed under the JBNQA and the NEQA.

II. REVISION OF THE LAWS FLOWING FROM THE JBNQA

Federal and provincial legislation

A number of federal and provincial laws have been adopted to put into effect the terms of the JBNQA. It is likely they will be reviewed and, where necessary, amended in order to implement any revision of the Agreement or the provisions of a new treaty:

a) federal laws such as the James Bay and Northern Québec Native Claims Settlement Act;

b) laws of Québec such as the Education Act for Cree, Inuit and Naskapi Native Persons; the Act approving the Agreement concerning James Bay and Northern Québec; the Act respecting hunting and fishing rights in the James Bay and New Québec territories; the Act respecting Cree, Inuit and Naskapi Native Persons; the Act respecting the Northern Villages and the Kativik Regional Government.

Some laws of general application may also be amended in order to give effect to some recommendations in this report. For example, these may include the Criminal Code of Canada (with respect to the administration of justice) or the Civil Code of Québec (with respect to civil law, such as the law of adoption), as well as the Charter of the French Language. In some cases, entirely new legislation may be required, for instance to provide for the financial arrangements surrounding the creation of the Nunavik Government.

A Nunavik Act

One way to achieve legal clarity and security in modifying the laws would be to have the different legislative enactments adopted within a single instrument, to be called the Nunavik Act. This law would be adopted by the National Assembly of Québec, as the Nunavik Government would be a public body under provincial jurisdiction. In order to give full symbolic importance to this legislation, as well as to ensure that the constitutional rights it expresses are given full protection, it should contain a provision stating that the Nunavik Act prevails over any other law of Québec that is not consistent with it, unless such other law states expressly that it prevails over the Nunavik Act. In this way, the Nunavik Act shall prevail over most other laws of Québec in the event of an inconsistency between them; since many such inconsistencies may be inadvertent, they will generally be resolved in favour of the Nunavik Act. If, however, the inconsistency is deliberate, then it will fall upon the National Assembly to clearly signal its intent by writing into a law that it desires that this law should prevail over the Nunavik Act in the event of a conflict between them; in that case, the courts may be called upon to decide if the inconsistency is compatible with the Constitution of Canada and with any treaty entered into by Québec.

A provincial Nunavik Act could not prevail over inconsistent federal legislation, but if the terms of a revised JBNQA or a new treaty are incorporated in federal legislation, this legislation could also contain a clause stating that it prevails over other federal laws that are incompatible. Such a provision already can be found in section 8 of the James Bay and Northern Québec Native Claims Settlement Act.

Both federal and provincial legislation would be subject to section 35 of the Constitutional Act of 1982, which guarantees the rights obtained by the Inuit through a treaty signed with the governments of Canada and Québec. All legislation which purports to implement the terms of such a treaty, as well as any other legislation, must therefore be consistent with it.

CONCLUSION

CONCLUSION

With this conclusion, the Commission has an opportunity to take stock of the full implications of its recommendations. In doing so, it must be mindful of the purpose of its task, as described in the Political Accord; namely to provide a roadmap for the structure, operations, powers and design of a new form of government for Nunavik.

This was a formidable challenge, and it was not always easy. Indeed, at times the Commissioners would have liked to have had the resources and open-ended mandate that would have allowed them to fully examine critical economic, social, cultural and legal questions. But every time they were tempted to address in detail the many issues confronting Nunavik, they returned to, and were even inspired by their original mandate.

As it began its work, the Commission quickly realized that the wording of its mandate was the culmination of events and efforts which span many decades. It noted that the creation of an autonomous government for Nunavik was a key objective of the Federation of Cooperatives, and later, the Northern Québec Inuit Association. It was also a major concern for the people who appeared before the Neville-Robitaille Commission over 30 years ago, and more recently, the focus of the Ujituijiit Committee and the Nunavik Constitutional Committee.

During their deliberations, the Commissioners returned time and time again to the central themes and principles of their mandate. These called for a Nunavik Government which would accommodate the territory's unique arctic realities and respond to the needs, desires, and aspirations of Inuit and the other residents of the region. Equally important was the requirement to be innovative in the recommendations and that the government would be non-ethnic in nature and capable of operating within provincial and federal jurisdictions. The Commissioners were careful not to stray beyond their mandate, but this was always balanced by their determination to go as far as necessary to do justice to the objectives and principles enshrined in the Political Accord.

The Commission is recommending nothing less than the creation of an Assembly with law-making powers. This by itself will do much to support Nunavik's quest for an autonomous government. Moreover, the consolidation of the existing public institutions and some of the other organizations will provide the Nunavik Government the resources needed to act on the decisions of the Assembly. It is the Commission's view that this consolidation will bring about expanded capacity and economies of scale which will result in a Nunavik Government that will be more than the sum of it parts. In addition, the Commission is proposing that this new government will have substantial and effective jurisdiction over a wide range of areas which occupy the essential part of this report. And finally, the Nunavik

Government's financial autonomy would be assured through block funding and revenue generating arrangements, as well as provisions for the sharing of taxes and other sources of revenue that are currently unavailable to Nunavik institutions.

Despite the unprecedented scope of the government the Commission is proposing, it will be capable of operating within provincial and federal jurisdictions. As it has been stated, the creation of a Nunavik Government will mean Québec will have the distinction of being the first province in Canada to make room within its jurisdiction for the creation of an assembly along with an autonomous form of public government.

The scope of all these recommendations is largely possible because the Nunavik Government will be non-ethnic in nature. As a public form of government, it would be open to the full participation of all the residents of the territory and, as such, it would have jurisdiction over the entire Nunavik territory. Its status as a public institution will also make it possible for both Québec and Canada to respect Nunavik's unique arctic realities by working through a Nunavik Government in order to fulfill their responsibilities to Inuit and non-Inuit alike. And it goes without saying that the Nunavik Government would be subject to the Canadian Charters of Rights and Freedoms and the Québec Charter of Human Rights and Freedoms.

Although a Nunavik Government would be a public institution, it would nevertheless have a very important role regarding the protection and promotion of the Inuit culture and language. This is a recurring theme in this report, and the subject of many of its recommendations. Right from the onset of its work, the Commission decided that there was little point in creating a strong and autonomous government for Nunavik if it lacked the tools and mandate to ensure the survival of the language, culture, and values of the Inuit majority of the territory.

Furthermore, in order to maintain this cultural vitality, the Commission made way for the Elders in its recommendations but it also counts on the youth which will have to take over its culture within modern times. Even if no specific recommendation has been made in that sense, the Commission wishes that the young now prepare themselves to find their place within the future Nunavik institutions.

Members of the Commission shared a deep commitment to address the many issues that were brought to their attention by the people of Nunavik during the public hearings. Commissioners are hopeful that their work will prove to be an important step in bringing about the changes people are looking for. However, they are keenly aware that this work culminates in a series of recommendations which they can only submit to the signatories of the Political Accord for consideration. Nevertheless, they firmly believe that their report is the logical extension of the

principles, objectives, and mandate embodied in the Political Accord, and it should therefore serve as the basis for the negotiations leading to the actual creation of the Nunavik Government.

If the Commission has succeeded, its report will serve as a benchmark for the work that will take place in the years to come and, ultimately, as mapping the road toward the creation of a Nunavik Government.

APPENDICES

APPENDIX 1

Political Accord

BETWEEN THE NUNAVIK PARTY, THE GOVERNMENT OF QUÉBEC AND THE FEDERAL GOVERNMENT FOR THE EXAMINATION OF A FORM OF GOVERNMENT IN NUNAVIK THROUGH THE ESTABLISHMENT OF A NUNAVIK COMMISSION

Preamble

Whereas this current initiative is in line with the overtures made in the past years in many occasions by the Québec Government to discuss on self-government in the part of Québec located north of the 55th parallel, hereafter designated as "Nunavik", noticeably as articulated by Premier René Lévesque at the 1983 parliamentary commission on Aboriginal matters held in the Québec National Assembly;

Whereas the parties to this accord agree to examine the creation of a form of government which, within the jurisdiction of Québec and Canada, will take into account the Nunavik arctic realities; which will respond to the needs, desires, and aspirations of Inuit and other residents living in this territory; which will have appropriate resources and powers of self-government for the Nunavik;

Whereas the parties to this accord acknowledge the need to build upon what was successfully negotiated in the James Bay and Northern Québec Agreement (JBNQA) and intend to take into account, if necessary, the negotiations for self-government in Nunavik which took place in 1994-1995 and in 1997-1998;

Whereas the Government of Canada appointed a federal representative to the previous negotiations, and intends to carry on with its participation to the coming discussions

on a form of government in Nunavik so that the Inuit and other residents of Nunavik continue to enjoy the benefits of a variety of federal services and programs, including existing and future initiatives and arrangements specifically related to services and programs;

Whereas there is renewed willingness to move ahead on this matter in Nunavik, and that the appointment of properly constituted Commissions has proven to be successful means of advancing the new governmental arrangements for both Nunavut and Greenland;

Therefore the Nunavik Party, the Government of Québec, and the Government of Canada agree as follows :

1. General

1.1 *The parties to this accord agree to establish a Nunavik Commission with the mandate to develop a timetable, plan of action, and recommendations for the structure, operations and powers of a government in Nunavik;*

1.2 *The Nunavik Commission shall develop a timetable, plan of action, and recommendations in a manner which will be ready for implementation in concrete terms, and which will serve as the basis for the discussions to create a government in Nunavik;*

1.3 *The Preamble and Appendix to this document form an integral part of this Accord.*

1.4 *For the purposes of this Accord, « Nunavik » means the part of Québec located north of the 55th parallel of latitude except Category 1A lands and 1B lands of the Cree of Great Whale, as defined in the JBNQA and Category 1B-N lands of the Naskapi, as defined in the Northeastern Québec Agreement (NEQA).*

2. Parties

2.1 The Parties to this agreement are :

THE NUNAVIK PARTY,
as represented by :
• the Makivik Corporation and its president;

and

THE GOVERNMENT OF QUÉBEC,
as represented by :
• the ministre délégué aux Affaires autochtones,
• the ministre délégué aux Affaires intergouvernementales canadiennes;

and

THE GOVERNMENT OF CANADA,
as represented by :
• the minister of Indian Affairs and Northern Development.

2.2 For the purposes of this Accord, and without prejudice to their respective mandates, responsibilities, and authorities, Makivik Corporation, the Kativik Regional Government (KRG), the Kativik School Board (KSB), the Nunavik Regional Board of Health and Social Services (NRBHSS) and the Kativik Regional Development Council (KRDC) are designated as the « Nunavik Party ».

3. Nunavik Commission

3.1 The Government of Québec shall establish a Nunavik Commission, hereafter designated as the Commission, to carry out the functions and mandates described in this Accord and shall provide the Commission with the appropriate powers to carry out its mandate.

3.2 The Commission shall be comprised of two Co-Chairpersons and six Commissioners. One of the Co-Chairpersons and two of the Commissioners shall be appointed by the Nunavik Party, one of the Co-Chairpersons and two of the Commissioners shall be appointed by the Government of Québec, and two of the Commissioners shall be appointed by the Minister of Indian Affairs and Northern Development. Individuals appointed as Co-Chairpersons shall be mutually acceptable to the Nunavik Party and the Government of Québec.

3.3 The Commission shall complete all of its work and table its recommendations within eight months of its establishment. This deadline may be extended with the consent of the parties to this Accord. The recommendations tabled by the Commission shall be subject to a consensus from all its members.

3.4 The Commission shall meet regularly in order to carry out its mandate as it sees fit, and, except for what is provided for this Accord, shall establish the rules and procedures necessary to carry out its work.

3.5 The Commission shall have the power to travel, hold hearings, strike technical committees, engage the services of consultants and experts and will conduct community consultations.

3.6 The Commission will count on the funding provided in appendix of this Accord to carry out its mandate and functions. Moreover, the Commission shall be entitled to receive

funding through contribution agreements, subject to approval by the parties to this Accord. The Commission shall make its financial records available to any of the parties at their request, and shall arrange to have a full audited statement of its revenue and expenses released within 90 days following the completion of its work.

3.7 *The Commission shall table all of its reports and recommendations with the Government of Québec, the entities which constitute the Nunavik Party, the Government of Canada, and interested regional organizations in Nunavik, including Avataq Cultural Institute and Taqramiut Nipingat Incorporated. The Commission shall make its final recommendations and reports available in Inuktitut, French, and English.*

3.8 *The Governments of Québec and Canada and the Nunavik organizations shall cooperate with any request for information made by the Commission within the framework of the laws in order to fulfill its mandate.*

4. Mandate of the Commission

4.1 *Subject to the provisions of this Accord, the Commission shall make a comprehensive set of recommendations on the design, operation, and implementation of a form of government in Nunavik. More specifically, the Commission shall make recommendations on :*

a) *the powers, jurisdictions, responsibilities, and competencies of the Nunavik Government;*

b) *the election process, the representation, the term of office as well as the size and the responsibilities of the structure that will lead the Nunavik Government;*

c) *the selection of the Leader and the elected members responsible for the Nunavik Government, including the role, powers, and responsibilities of the Executive;*

d) *the initial administrative design of the Nunavik Government, including the identification of the administrative structures and required personnel and resources;*

e) *a plan of action and consultation process for a timetable for the consolidation under a Nunavik Government of the powers, competencies, responsibilities, rights, resources, obligations, liabilities, privileges, assets, the administrative and programs functions, and where applicable, the insurance needs and relevant collective agreements of the KRG, KSB, KRDC, NRBHSS, and wherever appropriate, other regional organizations in Nunavik, including Avataq Cultural Institute and Tagramiut Nipingat Incorporated; identifying the necessary agreements, legislation, and amendments to the James Bay and Northern Québec Agreement required for the creation of a Nunavik Government;*

f) *the relationship between governments, including the relationship between the Nunavik Government and the Nunavik Municipalities, between the Nunavik Government and the Québec Government, between the Nunavik Government and the Government of Canada, and between the Nunavik Government and Nunavut and other arctic governments; moreover, the relationship between the Nunavik Government, the Crees and the Jamesians of the region Nord-du-Québec;*

g) *the financing of the Nunavik Government, including formula based financing (block funding) arrangements, revenue sharing arrangements between the Nunavik Government and Québec Government, and the Nunavik Government and the Federal Government, and issues relating to taxation and the ability to incur debt;*

h) *measures to promote and enhance the Inuit culture in Nunavik, including the use of Inuktitut in the Nunavik Government;*

i) *transitional measures, including training programs to encourage the greatest number of Nunavik residents to fill positions within the Nunavik Government, arrangements for the delivery of existing programs and services in Nunavik, and an overall timetable for the implementation of the Nunavik Government;*

j) a process for the implementation of a Nunavik Government and such a process shall include a vote among the residents of Nunavik prior to its implementation.

4.2 Where appropriate, the Commission may use for its work all the documents it considered relevant, including the draft documents that were issued as a result of the 1994-1995 and 1997-1998 discussions and negotiations concerning self-government in Nunavik.

4.3 The Commission will develop mechanisms that will allow for an appropriate consultation of other aboriginal parties having rights in the territory and as set out in the JBNQA and the NEQA.

5. Overriding Principles

5.1 The work and recommendations of the Commission shall respect and provide for the following principles:

a) the Nunavik Government will be non-ethnic in nature and will be open to all permanent residents of Nunavik;

b) the Nunavik Government shall come under the jurisdiction of the Québec National Assembly; it shall respect the authority of the latter and of the federal Parliament;

c) any amendment of the JBNQA for the purposes of enabling the creation of a Nunavik Government shall be agreed upon by the parties of this Accord and shall not modify the other rights of the Inuit under the JBNQA or the exercise of those rights. Any rights eliminated or modified by amendment of the JBNQA must be replaced by equivalent provisions;

d) the creation of a Nunavik Government shall not prejudice the rights of Crees or Naskapis as set out in the JBNQA and the NEQA;

e) the design of the Nunavik Government must be implementable within the prevailing legal and economic realities and must take into account the financial

resources of Québec and Canada, but it may also be innovative in nature, and not unduly restricted by policy parameters that are essentially incompatible with the notion of a new type of government under the authority of the Québec National Assembly;

f) *any modification to the JBNQA for the establishment of a Nunavik Government shall not lessen the Québec and federal governments powers, responsibilities and obligations, or the nature of these powers, responsibilities and obligations, to, and in relation to the Inuit of Nunavik, or to Nunavik's institutions or successor institutions, except as a result of negotiated agreements;*

g) *the Nunavik Government shall have jurisdiction for matters coming under its responsibility and authority over all Nunavik except for Category 1A lands and 1B lands of the Cree of Great Whale, as defined in the JBNQA and Category 1B-N lands of the Naskapi, as defined in the NEQA, and the Nunavik Government shall exercise its jurisdiction over the Nunavik in a manner which fully respects the rights of all Aboriginal People set out in the JBNQA and the NEQA, as well as the rights and obligations of third parties in Nunavik;*

h) *arrangements for the establishment of a Nunavik Government shall not modify the land and natural resources regimes established under the JBNQA and the NEQA;*

i) *The Canadian Charter of Rights and Freedoms and the Charter of Human Rights and Freedom (Québec) shall apply to the Nunavik Government;*

j) *the establishment of the Nunavik Assembly and Government shall provide for revenue sources specific to the Nunavik Government as well as block funding arrangements (formula financing) which shall replace all, or parts, of current means by which Québec funds institutions, programs, services, and operations for the benefit of the Nunavik and its residents;*

k) *the powers, jurisdictions, responsibilities, and competencies of the Nunavik Government shall include all those of the KRG, NRBHSS, KRDC, KSB, including, where considered appropriate, those identified in the negotiations and discussions of 1994-1995 and 1997-1998, and other powers, jurisdictions, responsibilities, and competencies appropriate for a new type of government,*

- FOR THE NUNAVIK PARTY:

Pita Aatami
president of the Makivik Corporation

Signed in _____ on 5/11 1999

- FOR THE GOVERNMENT OF QUÉBEC:

Guy Chevrette
ministre délégué aux Affaires autochtones

Signed in _____ on 5/11 1999

And

Joseph Facal
ministre délégué aux Affaires intergouvernementales canadiennes

Signed in _____ on 5/11 1999

- FOR THE GOVERNMENT OF CANADA:

Robert Nault
minister of Indian Affairs and Northern Development

Signed in _____ on 5/11 1999

under the authority of the Québec National Assembly, created to respond to the unique arctic realities of Nunavik;

l) arrangements for the establishment of a Nunavik Government shall respect the arctic character of Nunavik and close relationship between the Inuit of Nunavik and Nunavut.

6. Continuation of Programs

6.1 The existence and work of the Commission, including any subsequent negotiations, shall not affect Québec or federal programs, services, or funding which apply, or would normally apply to Nunavik residents and entities. Likewise, the existence and work of the Commission, including any subsequent negotiations, shall not adversely affect other negotiations or other initiatives involving the Government of Québec, the Government of Canada, or any of the Nunavik entities.

7. Follow-up to the work of the Commission and duration of the accord

7.1 Within three months after it has tabled its recommendations as foreseen in section 3.3, the Commission shall meet the parties – together or separatly – to present the results of its work and all the recommendations as well as to exchange on any aspect pertaining to the questions examined by the Commission.

7.2 After the meeting's period foreseen in section 7.1, the parties undertake to start negotiations in order to set up a process aiming at the establishment of a form of government in Nunavik which could be inspired, totally or partly, from the recommendations of the Commission.

7.3 This Accord shall come into effect upon signing by the parties and will remain in effect until the Commission has fulfilled its mandate as per sections 3.3 and 7.1, and until the parties have agreed upon the follow up concerning the negotiations

foreseen in section 7.2. This Accord may be amended, from time to time, upon mutual consent of the parties.

8. Disclaimer

8.1 *This Accord shall not be interpreted as a treaty or a land claim agreement within the meaning of section 35 of the Constitution Act of 1982.*

9. Interpretation

9.1 *There shall be an Inuktitut, a French and an English version of this Accord. The French and English versions shall be the authoritative versions.*

APPENDIX 2

ORGANIZATIONS CONSULTED BY THE NUNAVIK COMMISSION

ORGANIZATIONS OF NUNAVIK

- Avataq Cultural Institute
- Corporations of the Northern Villages of Akulivik, Aupaluk, Inukjuak, Ivujivik, Kangiqsualujjuaq, Kangiqsujuaq, Kangirsuk, Kuujjuaq, Kuujjuarapik, Puvirnituq, Quaqtaq, Salluit, Tasiujaq and Umiujaq
- Fédération des Coopératives du Nouveau-Québec
- Hunting, Fishing and Trapping Association
- Hunting, Fishing and Trapping Coordinating Committee
- Inuit community of Chisasibi
- Inuit students and other residents of the Montreal area
- Kativik Environment Advisory Committee
- Kativik Environment Quality Commission
- Kativik Municipal Housing Bureau
- Kativik Regional Government
- Kativik School Board, including schools and secondary students of the Nunavik communities
- Katutjiniq Regional Development Council
- Makivik Corporation
- Members of the former Nunavik Constitutional Committee
- Northern Québec Teaching Association (CEQ)
- Nunavik Regional Board of Health and Social Services
- Nunavik Youth Association
- Taqramiut Nipingat Inc.

ORGANIZATIONS AND RESOURCE PERSONS OUTSIDE OF NUNAVIK

- Amagoalik, John, Chairperson of the former Nunavut Implementation Commission
- Berlinguet, Louis, Special Councillor to the Minister of Research, Science and Technology, Government of Québec
- Commission on self-government (Greenland)
- Danish High Commissioner in Greenland, Mr. Gunnar Martens
- Dussault, René, Co-chairperson of the former Royal Commission on Aboriginal People
- Grand Council of the Crees
- Greenland Home Rule Government (Speaker of the Parliament of Greenland, Foreign Affairs Office, Commission on Wildlife Management),
- Inuit Circumpolar Conference (in Greenland)
- Irniq, Peter, Commissioner in Nunavut
- James Bay Regional Development Council
- Labrador Inuit Association
- Lévesque, Carole, INRS, Université du Québec à Montréal
- Matimekush – Lac John Innu First Nation

- Naskapi Nation of Kawawachikamach
- Nunavut Government (Department of Sustainable Development, Human Resources, Finance and Justice; Wildlife Management Board; Language Commission)
- Patterson, Dennis, former leader of NWT Government
- Québec and Labrador Assembly of First Nations
- Rasmussen, Rasmus Ole, Roskilde University (Denmark)
- Robitaille, Benoît, Cochairperson of the former Neville-Robitaille Commission (1970)
- Silverstone, Sam and Watt, Donald, Makivik Corporation
- Thompsen, Marianne Lykke, Greenland representative, Royal Danish Embassy (Ottawa)
- Whapmagoostui First Nation.

- QUÉBEC INSTITUTIONS

- National Assembly of Québec
- Québec Government departments and agencies: Agriculture, Fisheries and Food, Canadian and Intergovernmental Affairs, Chief Electoral Officer, Child and Family Welfare, Culture and Communications, Education, Environment, Finance, Health and Social Services, International relations, Justice, Municipal Affairs and Metropolis, Natural Resources, Public Security, Québec Construction Commission, Québec Housing Corporation, Québec General Auditor, Québec Parole Board, Regions, Social Solidarity, Tourism, Transport, Treasury Board, Wildlife and Parks.

- FEDERAL GOVERNMENT

- Department of Indian and Northern Affairs Canada more particularly on the following topics: Self-government Policy, Comprehensive Claims Policy, Financial federal transfers to the Territories, Own source revenues, Resource Management and Environment North of 60th, Labrador Innu Nation Comprehensive Land Claim, Attikamekw and Montagnais of Québec Land Claim, Labrador Inuit Association Land Claim, Makivik Offshore Claim, Yukon Self-government, Inuvialuit/Gwichin Self-government, JBNQA Implementation Office, NEQA Implementation Office, Nunavut Secretariat, Nunavut training program, Nisga'a Agreement.
- Information meeting with the following departments and agencies: Canada Mortgage and Housing Corporation, Fisheries and Oceans Canada, Health Canada, Finance, Human Resources Development Canada, Justice Canada, Natural Resources Canada, Privy Council Office, Solicitor General, Treasury Board, Industry Canada, Heritage Canada, Transport Canada, Environment Canada.

APPENDIX 3

BRIEFS TABLED BEFORE THE NUNAVIK COMMISSION

FROM NUNAVIK ORGANIZATIONS

- *Brief to the Nunavik Commission*, Makivik Corporation, April 2000, 13 pages
- *Document on Self-government in Nunavik*, Kativik School Board, April 20 2000, 20 pages
- *Maintaining quality educational services for Nunavik*, Northern Québec Teaching Association (CEQ), June 16 2000, 8 pages
- *Health and Social Services under a Nunavik government*, Nunavik Regional Board of Health and Social Services, June 2000, 33 pages
- *Nunavik Culture and Inuttitut language, A Synthesis of the needs identified since 1981*, Avataq Cultural Institute, July 11, 2000, 17 pages
- *Position paper regarding priorities in matters of communication and the role of radio and television and the future of Nunavik*, Taqramiut Nipingat Inc., September 2000, 26 pages
- *Wildlife management under a future Nunavik Government*, Nunavik Hunting, Fishing and Trapping Association, May 2000, 14 pages
- *Consultation on the possible creation of a Nunavik Government*, letter sent by the Hunting, Fishing and Trapping Coordinating Committee, September 22, 2000, 2 pages
- *Youth Representation in the Nunavik Government*, letter sent by the Nunavik Youth Association, September 25, 2000, 1 page
- Letter to the Nunavik Commission, Karl Kristensen, Ivujivik, June 14, 2000
- Letter to the Nunavik Commission, Alec Tookatook, Kuujjuarapik, February 16, 2000

FROM OTHER ORGANIZATIONS

- *Nunavik Commission on Self-government: unresolved questions of bias, non-disclosure and Cree overlapping rights*, Grand Council of the Crees and Whapmagoostui First Nation, September 2000, 173 pages
- *Brief presented to Nunavik Commission*, Naskapi Nation of Kawawachikamach, February 21, 2000, 9 pages plus appendices
- Letter sent by the Assembly of the First Nations of Québec and Labrador, October 6 2000, 3 pages plus appendices
- Letter sent by the Labrador Inuit Association, November 24, 2000, 8 pages

OTHER DOCUMENTS

- The Kativik Regional Government, the Fédération des Coopératives du Nouveau-Québec and the Matimekush Innu First Nation tabled before the Nunavik Commission information documents that express these organization's point of view without being briefs as such.

APPENDIX 4

REFERENCES

In the course of its mandate, the Nunavik Commission and its internal working groups have consulted a large array of documentation and research which were of great interest and pertinence. However, the Commission chose to insert in this list of references only the documents that are directly quoted in this report.

GENERAL

- *Report of the Royal Commission on Aboriginal Peoples*, RCAP, 1996
- *Comprehensive Report of the Nunavut Implementation Commission*, October 1996
- *The Nunavik Constitution*, Report from the Nunavik Constitutional Committee, December 1989
- *Report of the Federal-Provincial team of officials directed to visit the communities of Nouveau-Québec in February-March 1970*, F. J. Neville and B. Robitaille, 1970

JUSTICE

- *Inuit Justice Task Force Report*, Makivik Corporation, 1992
- *Justice for and by the Aboriginals, Report of the Advisory Committee on the Administration of Justice in Aboriginal communities*, Jean-Charles Coutu, August 1995

EDUCATION, CULTURE AND LANGUAGE

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